

**Introduced by Senator Torlakson**

February 15, 2005

---

An act to amend Sections 7076, 7086, 7097, and 7107 of, and to add Section 7114.2 to, the Government Code, and to amend Sections 17053.34, 17053.46, 17053.47, 23622.8, 23634, and 23646 of the Revenue and Taxation Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

SB 254, as introduced, Torlakson. Economic development.

The Enterprise Zone Act prescribes the duties and responsibilities of the Department of Housing and Community Development in connection with the establishment of enterprise zones and manufacturing enhancement areas and authorizes the department and local governments to charge and collect fees in connection with the act and to assess each enterprise zone a fee of not more than \$10 for each application it accepts for the issuance of a specified tax certificate issued by a local government.

Existing law also requires the Department of Housing and Community Development to administer the targeted tax area program and to rank and designate applicant communities that meet specified criteria as targeted tax areas. Existing law also requires the department to administer the Local Agency Military Base Recovery Act and to designate a military base or a former military base as eligible to be a local agency military base recovery area (LAMBRA).

This bill would authorize the department to charge a fee in connection with the costs of administering provisions relating to the targeted tax area program and the Local Agency Military Base Recovery Act and would also require the department to also assess an enterprise zone, a manufacturing enhancement area, a targeted tax

area, and a local agency military base recovery area (LAMBRA) the same fee of not more than \$10, as specified above.

The bill would also require the department to develop regulations for the issuance of these tax certificates by local governments and would also make other conforming and technical changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 7076 of the Government Code is  
2 amended to read:

3 7076. (a) (1) The department shall provide technical  
4 assistance to the enterprise zones designated pursuant to this  
5 chapter with respect to all of the following activities:

6 (A) Furnish limited onsite assistance to the enterprise zones  
7 when appropriate.

8 (B) Ensure that the locality has developed a method to make  
9 residents, businesses, and neighborhood organizations aware of  
10 the opportunities to participate in the program.

11 (C) Help the locality develop a marketing program for the  
12 enterprise zone.

13 (D) Coordinate activities of other state agencies regarding the  
14 enterprise zones.

15 (E) Monitor the progress of the program.

16 (F) Help businesses to participate in the program.

17 (2) Notwithstanding existing law, the provision of services in  
18 subparagraphs (A) to (F), inclusive, shall be a high priority of the  
19 department.

20 (3) The department may, at its discretion, undertake other  
21 activities in providing management and technical assistance for  
22 successful implementation of this chapter.

23 (b) The applicant shall be required to begin implementation of  
24 the enterprise zone plan contained in the final application within  
25 six months after notification of final designation or the enterprise  
26 zone shall lose its designation.

27 (c) The department may establish, charge, and collect a fee as  
28 reimbursement for the costs of its administration of this chapter.

29 The department shall assess each enterprise zone a fee of not

1 more than ten dollars (\$10) for each application it ~~accepts~~ for  
2 issuance of a certificate pursuant to *subdivision (j) of Section*  
3 *17053.47 of, subdivision (c) of Section 17053.74 of the Revenue*  
4 ~~and Taxation Code and of, subdivision (c) of Section 23622.7~~  
5 *23622.7 of, or subdivision (i) of Section 23622.8 of, the Revenue*  
6 *and Taxation Code. The enterprise zone or manufacturing*  
7 *enhancement area administrator may shall* collect this fee at the  
8 time it ~~accepts~~ an application *is submitted* for issuance of a  
9 certificate. ~~This subdivision shall become inoperative on July 1,~~  
10 ~~2006, and shall have no force or effect on or after that date.~~

11 ~~(d) Any fee assessed and collected pursuant to subdivision (c)~~  
12 ~~shall be refundable if the certificate issued by the local~~  
13 ~~government pursuant to subdivision (c) of Section 17053.74 of~~  
14 ~~the Revenue and Taxation Code and subdivision (c) of Section~~  
15 ~~23622.7 of the Revenue and Taxation Code is not accepted by~~  
16 ~~the Franchise Tax Board.~~

17 SEC. 2. Section 7086 of the Government Code is amended to  
18 read:

19 7086. (a) The department shall design, develop, and make  
20 available the applications and the criteria for selection of  
21 enterprise zones pursuant to Section 7073; and shall adopt all  
22 regulations necessary to carry out this chapter.

23 (b) The department shall adopt regulations concerning the  
24 designation procedures and application process as emergency  
25 regulations in accordance with Chapter 3.5 (commencing with  
26 Section 11340) of Part 1 of Division 3 of Title 2. The adoption of  
27 the regulations shall be deemed to be an emergency and  
28 necessary for the immediate preservation of the public peace,  
29 health and safety, or general welfare, notwithstanding  
30 subdivision (e) of Section 11346.1. Notwithstanding subdivision  
31 (e) of Section 11346.1, the regulations shall not remain in effect  
32 more than 120 days unless the department complies with all  
33 provisions of Chapter 3.5 as required by subdivision (e) of  
34 Section 11346.1.

35 (c) The Department of General Services, with the cooperation  
36 of the Employment Development Department, the Department of  
37 Industrial Relations, and the Office of Planning and Research,  
38 and under the direction of the State and Consumer Services  
39 Agency, shall adopt appropriate rules, regulations, and guidelines  
40 to implement Section 7084.

(d) The department shall adopt regulations governing the imposition and collection of fees pursuant to ~~subdivisions (e) and (d) subdivision (c)~~ of Section 7076, and the issuance of certificates by local governments pursuant to *subdivision (j) of Section 17053.47 of*, subdivision (c) of Section ~~17053.74 of the Revenue and Taxation Code and 17053.74 of~~, subdivision (c) of Section 23622.7 *of*, or subdivision (i) of Section 23622.8 of, the Revenue and Taxation Code. The regulations shall provide for a notice or invoice to fee payers as to the amount and purpose of the fee. The adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding subdivision (e) of Section 11346.1, the regulations shall remain in effect for no more than 360 days unless the agency complies with all the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 as required by subdivision (e) of Section 11346.1.

SEC. 3. Section 7097 of the Government Code is amended to read:

7097. (a) The Department of Housing and Community Development shall rank applicant communities and shall designate the first ranking community whose governing body is applying as a community to be designated as a targeted tax area which meets at least four of the five following criteria:

(1) The average unemployment rate in the applicant community exceeded 7.5 percent in 1995.

(2) The average unemployment rate in the applicant community exceeded 7.5 percent in 1996.

(3) The median family income in the applicant community does not exceed thirty-two thousand seven hundred dollars (\$32,700).

(4) The percentage of persons in the applicant community below the poverty level is at least 17.5 percent.

(5) The applicant community ranks in the top quartile, among California counties, in the percentage of population receiving Aid for Families with Dependent Children benefits, based on the Cash Grant Caseload Movement and Expenditures Report, July 1995 to June 1996.

(b) For purposes of applying any provision of the Revenue and Taxation Code, any targeted tax area designated pursuant to this

1 section shall not be considered an enterprise zone designated  
2 pursuant to Chapter 12.8 (commencing with Section 7070).

3 (c) Except as provided in subdivision (e), the designation as a  
4 targeted tax area pursuant to this section shall be binding for a  
5 period of 15 years, commencing January 1, 1998.

6 (d) Only one targeted tax area shall be designated by the  
7 department, and a renewed or replacement designation shall not  
8 be made after the initial designation expires or is revoked.

9 (e) An audit of the program's operation shall be made by the  
10 department on a periodic basis with the cooperation of the local  
11 governing board. If the department determines that the local  
12 jurisdiction is not complying with the terms of the memorandum  
13 of understanding, the department shall provide written notice of  
14 the program deficiencies and the governing body shall be given  
15 six months to correct the deficiencies. If the deficiencies are not  
16 corrected, the designation shall be revoked.

17 (f) A county and any cities within the county may apply  
18 jointly as a community if the combination of the jurisdictions  
19 meets the criteria.

20 (g) (1) *The department may establish, charge, and collect a*  
21 *fee as reimbursement for the costs of its administration of this*  
22 *chapter. The department shall assess each targeted tax area a fee*  
23 *of not more than ten dollars (\$10) for each application for*  
24 *issuance of a certificate pursuant to subdivision (d) of Section*  
25 *17053.34 of the Revenue and Taxation Code and subdivision (d)*  
26 *of Section 23634 of the Revenue and Taxation Code. The*  
27 *targeted tax area administrator shall collect this fee at the time*  
28 *an application is submitted for issuance of a certificate.*

29 (2) *The department shall adopt regulations governing the*  
30 *imposition and collection of fees pursuant to this subdivision and*  
31 *the issuance of certificates by local governments pursuant to*  
32 *subdivision (d) of Section 17053.34 of the Revenue and Taxation*  
33 *Code and subdivision (d) of Section 23634 of the Revenue and*  
34 *Taxation Code. The regulations shall provide for a notice or*  
35 *invoice to fee payers as to the amount and purpose of the fee. The*  
36 *adoption of the regulations shall be deemed to be an emergency*  
37 *and necessary for the immediate preservation of the public*  
38 *peace, health and safety, or general welfare. Notwithstanding*  
39 *subdivision (e) of Section 11346.1, the regulations shall remain*  
40 *in effect for no more than 360 days unless the agency complies*

1 *with all the provisions of Chapter 3.5 (commencing with Section*  
2 *11340) of Part 1 of Division 3 of Title 2 as required by*  
3 *subdivision (e) of Section 11346.1.*

4 SEC. 4. Section 7107 of the Government Code is amended to  
5 read:

6 7107. For purposes of this chapter:

7 (a) “Department” means the Department of Housing and  
8 Community Development.

9 (b) “Base” means a federal military installation or  
10 subinstallation as defined by regulations of the Departments of  
11 the Army, Navy, and Air Force, and other defense activities.

12 (c) “Critically needed hazardous waste facilities” means a  
13 facility that will provide necessary offsite treatment capacity for  
14 which there is a substantial shortfall or lack of capacity. This  
15 shortfall shall be as identified in any of the following documents:

16 (1) The State Hazardous Waste Management Plan.

17 (2) The State’s Capacity Assurance Plan required by federal  
18 law.

19 (3) Other reports of the Department of Toxic Substances  
20 Control.

21 (d) “Downsizing” means a significant reduction in federal  
22 funding, personnel, and equipment on a base.

23 (e) “Economic development plan” includes, but is not limited  
24 to, a marketing plan, a job development plan, and an analysis of  
25 infrastructure.

26 (f) “Eligible area” means a geographic area meeting the  
27 criteria described in Section 7111.

28 (g) “Governing body” means a city, county, city and county,  
29 joint powers agency, council, or board, as appropriate.

30 (h) “Local agency military base recovery area” (*LAMBRA*)  
31 means any military base or former military base or portion  
32 thereof which is designated in accordance with the provisions of  
33 Section 7114.

34 (i) “Region One” includes the following counties: Del Norte,  
35 Siskiyou, Modoc, Humboldt, Trinity, Shasta, Lassen,  
36 Mendocino, Tehama, Glenn, Butte, Plumas, Marin, Napa,  
37 Sonoma, Lake, Colusa, Sutter, Yuba, Nevada, Sierra, Placer,  
38 Yolo, Solano, Sacramento, El Dorado, and Amador.

(j) “Region Two” includes the following counties: Contra Costa, San Francisco, Santa Cruz, Santa Clara, Alameda, and San Mateo.

(k) “Region Three” includes the following counties: Monterey, San Benito, San Joaquin, Merced, Fresno, Stanislaus, Kings, Madera, Mariposa, Tuolumne, Calaveras, Alpine, Mono, Inyo, and Tulare.

(l) “Region Four” includes the following counties: San Diego, San Bernardino, Riverside, and Imperial.

(m) “Region Five” includes the following counties: Los Angeles, Orange, Ventura, Santa Barbara, San Luis Obispo, and Kern.

(n) “Reuse plan” includes, but is not limited to, an evaluation of community goals for the future as they relate to potential use of the former military facilities and land areas, market studies or surveys to evaluate the regional economic setting, trends, and pressures affecting base reuse, surveys or inventories of on-base facilities to determine their condition, quality and reuse potential and liability, development of reuse alternatives responding to market conditions, community goals, and reuse of potential of existing assets, review of alternative strategies with the community at large and consensus building of a preferred development strategy.

SEC. 5. Section 7114.2 is added to the Government Code, to read:

7114.2. (a) The department may establish, charge, and collect a fee as reimbursement for the costs of its administration of this chapter. The department shall assess each LAMBRA a fee of not more than ten dollars (\$10) for each application for issuance of a certificate pursuant to subdivision (c) of Section 17053.46 of the Revenue and Taxation Code and subdivision (c) of Section 23646 of the Revenue and Taxation Code. The LAMBRA administrator shall collect this fee at the time an application is submitted for issuance of a certificate.

(b) The department shall adopt regulations governing the imposition and collection of fees pursuant to this section and the issuance of certificates by local governments pursuant to subdivision (c) of Section 17053.46 of the Revenue and Taxation Code and subdivision (c) of Section 23646 of the Revenue and Taxation Code. The regulations shall provide for a notice or

1 invoice to fee payers as to the amount and purpose of the fee.  
2 The adoption of the regulations shall be deemed to be an  
3 emergency and necessary for the immediate preservation of the  
4 public peace, health and safety, or general welfare.  
5 Notwithstanding subdivision (e) of Section 11346.1, the  
6 regulations shall remain in effect for no more than 360 days  
7 unless the agency complies with all the provisions of Chapter 3.5  
8 (commencing with Section 11340) of Part 1 of Division 3 of Title  
9 2 as required by subdivision (e) of Section 11346.1.

10 SEC. 6. Section 17053.34 of the Revenue and Taxation Code  
11 is amended to read:

12 17053.34. (a) For each taxable year beginning on or after  
13 January 1, 1998, there shall be allowed a credit against the “net  
14 tax” (as defined in Section 17039) to a qualified taxpayer who  
15 employs a qualified employee in a targeted tax area during the  
16 taxable year. The credit shall be equal to the sum of each of the  
17 following:

18 (1) Fifty percent of qualified wages in the first year of  
19 employment.

20 (2) Forty percent of qualified wages in the second year of  
21 employment.

22 (3) Thirty percent of qualified wages in the third year of  
23 employment.

24 (4) Twenty percent of qualified wages in the fourth year of  
25 employment.

26 (5) Ten percent of qualified wages in the fifth year of  
27 employment.

28 (b) For purposes of this section:

29 (1) “Qualified wages” means:

30 (A) That portion of wages paid or incurred by the qualified  
31 taxpayer during the taxable year to qualified employees that does  
32 not exceed 150 percent of the minimum wage.

33 (B) Wages received during the 60-month period beginning  
34 with the first day the employee commences employment with the  
35 qualified taxpayer. Reemployment in connection with any  
36 increase, including a regularly occurring seasonal increase, in the  
37 trade or business operations of the qualified taxpayer does not  
38 constitute commencement of employment for purposes of this  
39 section.



(C) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the targeted tax area expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the qualified taxpayer within the targeted tax area within the 60-month period prior to the targeted tax area expiration date shall continue to qualify for the credit under this section after the targeted tax area expiration date, in accordance with all provisions of this section applied as if the targeted tax area designation were still in existence and binding.

(2) “Minimum wage” means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) “Targeted tax area expiration date” means the date the targeted tax area designation expires, is revoked, is no longer binding, or becomes inoperative.

(4) (A) “Qualified employee” means an individual who meets all of the following requirements:

(i) At least 90 percent of his or her services for the qualified taxpayer during the taxable year are directly related to the conduct of the qualified taxpayer’s trade or business located in a targeted tax area.

(ii) Performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in a targeted tax area.

(iii) Is hired by the qualified taxpayer after the date of original designation of the area in which services were performed as a targeted tax area.

(iv) Is any of the following:

(I) Immediately preceding the qualified employee’s commencement of employment with the qualified taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.

(II) Immediately preceding the qualified employee’s commencement of employment with the qualified taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN)

1 provided for pursuant to Article 3.2 (commencing with Section  
2 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and  
3 Institutions Code, or its successor.

4 (III) Immediately preceding the qualified employee's  
5 commencement of employment with the qualified taxpayer, was  
6 an economically disadvantaged individual 14 years of age or  
7 older.

8 (IV) Immediately preceding the qualified employee's  
9 commencement of employment with the qualified taxpayer, was  
10 a dislocated worker who meets any of the following:

11 (aa) Has been terminated or laid off or who has received a  
12 notice of termination or layoff from employment, is eligible for  
13 or has exhausted entitlement to unemployment insurance  
14 benefits, and is unlikely to return to his or her previous industry  
15 or occupation.

16 (bb) Has been terminated or has received a notice of  
17 termination of employment as a result of any permanent closure  
18 or any substantial layoff at a plant, facility, or enterprise,  
19 including an individual who has not received written notification  
20 but whose employer has made a public announcement of the  
21 closure or layoff.

22 (cc) Is long-term unemployed and has limited opportunities for  
23 employment or reemployment in the same or a similar  
24 occupation in the area in which the individual resides, including  
25 an individual 55 years of age or older who may have substantial  
26 barriers to employment by reason of age.

27 (dd) Was self-employed (including farmers and ranchers) and  
28 is unemployed as a result of general economic conditions in the  
29 community in which he or she resides or because of natural  
30 disasters.

31 (ee) Was a civilian employee of the Department of Defense  
32 employed at a military installation being closed or realigned  
33 under the Defense Base Closure and Realignment Act of 1990.

34 (ff) Was an active member of the armed forces or National  
35 Guard as of September 30, 1990, and was either involuntarily  
36 separated or separated pursuant to a special benefits program.

37 (gg) Is a seasonal or migrant worker who experiences chronic  
38 seasonal unemployment and underemployment in the agriculture  
39 industry, aggravated by continual advancements in technology  
40 and mechanization.

1 (hh) Has been terminated or laid off, or has received a notice  
2 of termination or layoff, as a consequence of compliance with the  
3 Clean Air Act.

4 (V) Immediately preceding the qualified employee's  
5 commencement of employment with the qualified taxpayer, was  
6 a disabled individual who is eligible for or enrolled in, or has  
7 completed a state rehabilitation plan or is a service-connected  
8 disabled veteran, veteran of the Vietnam era, or veteran who is  
9 recently separated from military service.

10 (VI) Immediately preceding the qualified employee's  
11 commencement of employment with the qualified taxpayer, was  
12 an ex-offender. An individual shall be treated as convicted if he  
13 or she was placed on probation by a state court without a finding  
14 of guilty.

15 (VII) Immediately preceding the qualified employee's  
16 commencement of employment with the qualified taxpayer, was  
17 a person eligible for or a recipient of any of the following:

18 (aa) Federal Supplemental Security Income benefits.

19 (bb) Aid to Families with Dependent Children.

20 (cc) Food stamps.

21 (dd) State and local general assistance.

22 (VIII) Immediately preceding the qualified employee's  
23 commencement of employment with the qualified taxpayer, was  
24 a member of a federally recognized Indian tribe, band, or other  
25 group of Native American descent.

26 (IX) Immediately preceding the qualified employee's  
27 commencement of employment with the qualified taxpayer, was  
28 a resident of a targeted tax area.

29 (X) Immediately preceding the qualified employee's  
30 commencement of employment with the taxpayer, was a member  
31 of a targeted group as defined in Section 51(d) of the Internal  
32 Revenue Code, or its successor.

33 (B) Priority for employment shall be provided to an individual  
34 who is enrolled in a qualified program under the federal Job  
35 Training Partnership Act or the Greater Avenues for  
36 Independence Act of 1985 or who is eligible as a member of a  
37 targeted group under the Work Opportunity Tax Credit (Section  
38 51 of the Internal Revenue Code), or its successor.

39 (5) (A) "Qualified taxpayer" means a person or entity that  
40 meets both of the following:

1 (i) Is engaged in a trade or business within a targeted tax area  
2 designated pursuant to Chapter 12.93 (commencing with Section  
3 7097) of Division 7 of Title 1 of the Government Code.

4 (ii) Is engaged in those lines of business described in Codes  
5 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,  
6 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,  
7 of the Standard Industrial Classification (SIC) Manual published  
8 by the United States Office of Management and Budget, 1987  
9 edition.

10 (B) In the case of any pass-through entity, the determination of  
11 whether a taxpayer is a qualified taxpayer under this section shall  
12 be made at the entity level and any credit under this section or  
13 Section 23634 shall be allowed to the pass-through entity and  
14 passed through to the partners or shareholders in accordance with  
15 applicable provisions of this part or Part 11 (commencing with  
16 Section 23001). For purposes of this subdivision, the term  
17 “pass-through entity” means any partnership or S corporation.

18 (6) “Seasonal employment” means employment by a qualified  
19 taxpayer that has regular and predictable substantial reductions in  
20 trade or business operations.

21 (c) If the qualified taxpayer is allowed a credit for qualified  
22 wages pursuant to this section, only one credit shall be allowed to  
23 the taxpayer under this part with respect to those qualified wages.

24 (d) The qualified taxpayer shall do both of the following:

25 (1) Obtain from ~~either~~ the Employment Development  
26 Department, as permitted by federal law, ~~or~~ the local county or  
27 city Job Training Partnership Act administrative entity ~~or~~, the  
28 local county GAIN office or social services agency, ~~as~~  
29 ~~appropriate or the local government administering the targeted~~  
30 ~~tax area~~, a certification that provides that a qualified employee  
31 meets the eligibility requirements specified in clause (iv) of  
32 subparagraph (A) of paragraph (4) of subdivision (b). The  
33 Employment Development Department may provide preliminary  
34 screening and referral to a certifying agency. ~~The Employment~~  
35 ~~Development Department shall develop a form for this purpose~~  
36 *The Department of Housing and Community Development shall*  
37 *develop regulations governing the issuance of certificates by*  
38 *local governments pursuant to subdivision (g) of Section 7097 of*  
39 *the Government Code and shall develop forms for this purpose.*

1 (2) Retain a copy of the certification and provide it upon  
2 request to the Franchise Tax Board.

3 (e) (1) For purposes of this section:

4 (A) All employees of trades or businesses, which are not  
5 incorporated, that are under common control shall be treated as  
6 employed by a single taxpayer.

7 (B) The credit, if any, allowable by this section with respect to  
8 each trade or business shall be determined by reference to its  
9 proportionate share of the expense of the qualified wages giving  
10 rise to the credit, and shall be allocated in that manner.

11 (C) Principles that apply in the case of controlled groups of  
12 corporations, as specified in subdivision (d) of Section 23634,  
13 shall apply with respect to determining employment.

14 (2) If an employer acquires the major portion of a trade or  
15 business of another employer (hereinafter in this paragraph  
16 referred to as the “predecessor”) or the major portion of a  
17 separate unit of a trade or business of a predecessor, then, for  
18 purposes of applying this section (other than subdivision (f)) for  
19 any calendar year ending after that acquisition, the employment  
20 relationship between a qualified employee and an employer shall  
21 not be treated as terminated if the employee continues to be  
22 employed in that trade or business.

23 (f) (1) (A) If the employment, other than seasonal  
24 employment, of any qualified employee, with respect to whom  
25 qualified wages are taken into account under subdivision (a) is  
26 terminated by the qualified taxpayer at any time during the first  
27 270 days of that employment (whether or not consecutive) or  
28 before the close of the 270th calendar day after the day in which  
29 that employee completes 90 days of employment with the  
30 qualified taxpayer, the tax imposed by this part for the taxable  
31 year in which that employment is terminated shall be increased  
32 by an amount equal to the credit allowed under subdivision (a)  
33 for that taxable year and all prior taxable years attributable to  
34 qualified wages paid or incurred with respect to that employee.

35 (B) If the seasonal employment of any qualified employee,  
36 with respect to whom qualified wages are taken into account  
37 under subdivision (a) is not continued by the qualified taxpayer  
38 for a period of 270 days of employment during the 60-month  
39 period beginning with the day the qualified employee  
40 commences seasonal employment with the qualified taxpayer,

1 the tax imposed by this part, for the taxable year that includes the  
2 60th month following the month in which the qualified employee  
3 commences seasonal employment with the qualified taxpayer,  
4 shall be increased by an amount equal to the credit allowed under  
5 subdivision (a) for that taxable year and all prior taxable years  
6 attributable to qualified wages paid or incurred with respect to  
7 that qualified employee.

8 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to  
9 any of the following:

10 (i) A termination of employment of a qualified employee who  
11 voluntarily leaves the employment of the qualified taxpayer.

12 (ii) A termination of employment of a qualified employee  
13 who, before the close of the period referred to in subparagraph  
14 (A) of paragraph (1), becomes disabled and unable to perform the  
15 services of that employment, unless that disability is removed  
16 before the close of that period and the qualified taxpayer fails to  
17 offer reemployment to that employee.

18 (iii) A termination of employment of a qualified employee, if  
19 it is determined that the termination was due to the misconduct  
20 (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22  
21 of the California Code of Regulations) of that employee.

22 (iv) A termination of employment of a qualified employee due  
23 to a substantial reduction in the trade or business operations of  
24 the qualified taxpayer.

25 (v) A termination of employment of a qualified employee, if  
26 that employee is replaced by other qualified employees so as to  
27 create a net increase in both the number of employees and the  
28 hours of employment.

29 (B) Subparagraph (B) of paragraph (1) shall not apply to any  
30 of the following:

31 (i) A failure to continue the seasonal employment of a  
32 qualified employee who voluntarily fails to return to the seasonal  
33 employment of the qualified taxpayer.

34 (ii) A failure to continue the seasonal employment of a  
35 qualified employee who, before the close of the period referred to  
36 in subparagraph (B) of paragraph (1), becomes disabled and  
37 unable to perform the services of that seasonal employment,  
38 unless that disability is removed before the close of that period  
39 and the qualified taxpayer fails to offer seasonal employment to  
40 that qualified employee.

(iii) A failure to continue the seasonal employment of a qualified employee, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified employee.

(iv) A failure to continue seasonal employment of a qualified employee due to a substantial reduction in the regular seasonal trade or business operations of the qualified taxpayer.

(v) A failure to continue the seasonal employment of a qualified employee, if that qualified employee is replaced by other qualified employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the qualified taxpayer and a qualified employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the qualified taxpayer, if the qualified employee continues to be employed in that trade or business and the qualified taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(g) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(2) Any beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated, for purposes of this part, as the employer with respect to those wages.

(h) For purposes of this section, “targeted tax area” means an area designated pursuant to Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(i) In the case where the credit otherwise allowed under this section exceeds the “net tax” for the taxable year, that portion of the credit that exceeds the “net tax” may be carried over and added to the credit, if any, in succeeding taxable years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 17053.33, including any credit carryover from prior years, that may reduce the “net tax” for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer’s business income attributable to the targeted tax area determined as if that attributable income represented all of the income of the qualified taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer’s California source business income that is apportioned to the targeted tax area. For that purpose, the taxpayer’s business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the targeted tax area in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the targeted tax area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer’s real and tangible personal property owned or rented and used in the targeted tax area during the taxable year, and the denominator of which is the average value of all the taxpayer’s real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the targeted tax area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the “net tax” for the taxable year, as provided in subdivision (h).

(5) In the event that a credit carryover is allowable under subdivision (h) for any taxable year after the targeted tax area



1 expiration date, the targeted tax area shall be deemed to remain  
2 in existence for purposes of computing the limitation specified in  
3 this subdivision.

4 SEC. 7. Section 17053.46 of the Revenue and Taxation Code  
5 is amended to read:

6 17053.46. (a) For each taxable year beginning on or after  
7 January 1, 1995, there shall be allowed as a credit against the  
8 “net tax” (as defined in Section 17039) to a qualified taxpayer for  
9 hiring a qualified disadvantaged individual or a qualified  
10 displaced employee during the taxable year for employment in  
11 the LAMBRA. The credit shall be equal to the sum of each of the  
12 following:

13 (1) Fifty percent of the qualified wages in the first year of  
14 employment.

15 (2) Forty percent of the qualified wages in the second year of  
16 employment.

17 (3) Thirty percent of the qualified wages in the third year of  
18 employment.

19 (4) Twenty percent of the qualified wages in the fourth year of  
20 employment.

21 (5) Ten percent of the qualified wages in the fifth year of  
22 employment.

23 (b) For purposes of this section:

24 (1) “Qualified wages” means:

25 (A) That portion of wages paid or incurred by the employer  
26 during the taxable year to qualified disadvantaged individuals or  
27 qualified displaced employees that does not exceed 150 percent  
28 of the minimum wage.

29 (B) The total amount of qualified wages which may be taken  
30 into account for purposes of claiming the credit allowed under  
31 this section shall not exceed two million dollars (\$2,000,000) per  
32 taxable year.

33 (C) Wages received during the 60-month period beginning  
34 with the first day the individual commences employment with the  
35 taxpayer. Reemployment in connection with any increase,  
36 including a regularly occurring seasonal increase, in the trade or  
37 business operations of the qualified taxpayer does not constitute  
38 commencement of employment for purposes of this section.

39 (D) Qualified wages do not include any wages paid or incurred  
40 by the qualified taxpayer on or after the LAMBRA expiration

1 date. However, wages paid or incurred with respect to qualified  
2 disadvantaged individuals or qualified displaced employees who  
3 are employed by the qualified taxpayer within the LAMBRA  
4 within the 60-month period prior to the LAMBRA expiration  
5 date shall continue to qualify for the credit under this section  
6 after the LAMBRA expiration date, in accordance with all  
7 provisions of this section applied as if the LAMBRA designation  
8 were still in existence and binding.

9 (2) “Minimum wage” means the wage established by the  
10 Industrial Welfare Commission as provided for in Chapter 1  
11 (commencing with Section 1171) of Part 4 of Division 2 of the  
12 Labor Code.

13 (3) “LAMBRA” means a local agency military base recovery  
14 area designated in accordance with Section 7114 of the  
15 Government Code.

16 (4) “Qualified disadvantaged individual” means an individual  
17 who satisfies all of the following requirements:

18 (A) (i) At least 90 percent of whose services for the taxpayer  
19 during the taxable year are directly related to the conduct of the  
20 taxpayer’s trade or business located in a LAMBRA.

21 (ii) Who performs at least 50 percent of his or her services for  
22 the taxpayer during the taxable year in the LAMBRA.

23 (B) Who is hired by the employer after the designation of the  
24 area as a LAMBRA in which the individual’s services were  
25 primarily performed.

26 (C) Who is any of the following immediately preceding the  
27 individual’s commencement of employment with the taxpayer:

28 (i) An individual who has been determined eligible for  
29 services under the federal Job Training Partnership Act (29  
30 U.S.C. Sec. 1501 et seq.).

31 (ii) Any voluntary or mandatory registrant under the Greater  
32 Avenues for Independence Act of 1985 as provided pursuant to  
33 Article 3.2 (commencing with Section 11320) of Chapter 2 of  
34 Part 3 of Division 9 of the Welfare and Institutions Code.

35 (iii) An economically disadvantaged individual age 16 years or  
36 older.

37 (iv) A dislocated worker who meets any of the following  
38 conditions:

39 (I) Has been terminated or laid off or who has received a  
40 notice of termination or layoff from employment, is eligible for

1 or has exhausted entitlement to unemployment insurance  
2 benefits, and is unlikely to return to his or her previous industry  
3 or occupation.

4 (II) Has been terminated or has received a notice of  
5 termination of employment as a result of any permanent closure  
6 or any substantial layoff at a plant, facility, or enterprise,  
7 including an individual who has not received written notification  
8 but whose employer has made a public announcement of such a  
9 closure or layoff.

10 (III) Is long-term unemployed and has limited opportunities  
11 for employment or reemployment in the same or a similar  
12 occupation in the area in which the individual resides, including  
13 an individual 55 years of age or older who may have substantial  
14 barriers to employment by reason of age.

15 (IV) Was self-employed (including farmers and ranchers) and  
16 is unemployed as a result of general economic conditions in the  
17 community in which he or she resides or because of natural  
18 disasters.

19 (V) Was a civilian employee of the Department of Defense  
20 employed at a military installation being closed or realigned  
21 under the Defense Base Closure and Realignment Act of 1990.

22 (VI) Was an active member of the armed forces or National  
23 Guard as of September 30, 1990, and was either involuntarily  
24 separated or separated pursuant to a special benefits program.

25 (VII) Experiences chronic seasonal unemployment and  
26 underemployment in the agriculture industry, aggravated by  
27 continual advancements in technology and mechanization.

28 (VIII) Has been terminated or laid off or has received a notice  
29 of termination or layoff as a consequence of compliance with the  
30 Clean Air Act.

31 (v) An individual who is enrolled in or has completed a state  
32 rehabilitation plan or is a service-connected disabled veteran,  
33 veteran of the Vietnam era, or veteran who is recently separated  
34 from military service.

35 (vi) An ex-offender. An individual shall be treated as  
36 convicted if he or she was placed on probation by a state court  
37 without a finding of guilty.

38 (vii) A recipient of:

39 (I) Federal Supplemental Security Income benefits.

40 (II) Aid to Families with Dependent Children.

1 (III) Food stamps.

2 (IV) State and local general assistance.

3 (viii) Is a member of a federally recognized Indian tribe, band,  
4 or other group of Native American descent.

5 (5) “Qualified taxpayer” means a taxpayer or partnership that  
6 conducts a trade or business within a LAMBRA and, for the first  
7 two taxable years, has a net increase in jobs (defined as 2,000  
8 paid hours per employee per year) of one or more employees in  
9 the LAMBRA.

10 (A) The net increase in the number of jobs shall be determined  
11 by subtracting the total number of full-time employees (defined  
12 as 2,000 paid hours per employee per year) the taxpayer  
13 employed in this state in the taxable year prior to commencing  
14 business operations in the LAMBRA from the total number of  
15 full-time employees the taxpayer employed in this state during  
16 the second taxable year after commencing business operations in  
17 the LAMBRA. For taxpayers who commence doing business in  
18 this state with their LAMBRA business operation, the number of  
19 employees for the taxable year prior to commencing business  
20 operations in the LAMBRA shall be zero. If the taxpayer has a  
21 net increase in jobs in the state, the credit shall be allowed only if  
22 one or more full-time employees is employed within the  
23 LAMBRA.

24 (B) The total number of employees employed in the  
25 LAMBRA shall equal the sum of both of the following:

26 (i) The total number of hours worked in the LAMBRA for the  
27 taxpayer by employees (not to exceed 2,000 hours per employee)  
28 who are paid an hourly wage divided by 2,000.

29 (ii) The total number of months worked in the LAMBRA for  
30 the taxpayer by employees who are salaried employees divided  
31 by 12.

32 (C) In the case of a taxpayer who first commences doing  
33 business in the LAMBRA during the taxable year, for purposes  
34 of clauses (i) and (ii), respectively, of subparagraph (B), the  
35 divisors “2,000” and “12” shall be multiplied by a fraction, the  
36 numerator of which is the number of months of the taxable year  
37 that the taxpayer was doing business in the LAMBRA and the  
38 denominator of which is 12.

39 (6) “Qualified displaced employee” means an individual who  
40 satisfies all of the following requirements:

(A) Any civilian or military employee of a base or former base who has been displaced as a result of a federal base closure act.

(B) (i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer's trade or business located in a LAMBRA.

(ii) Who performs at least 50 percent of his or her services for the taxpayer during the taxable year in a LAMBRA.

(C) Who is hired by the employer after the designation of the area in which services were performed as a LAMBRA.

(7) "Seasonal employment" means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(8) "LAMBRA expiration date" means the date the LAMBRA designation expires, is no longer binding, or becomes inoperative.

(c) For qualified disadvantaged individuals or qualified displaced employees hired on or after January 1, 2001, the taxpayer shall do both of the following:

(1) Obtain from ~~either~~ the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office, or social services agency, ~~as appropriate or the local government administering the LAMBRA~~, a certification that provides that a qualified disadvantaged individual or qualified displaced employee meets the eligibility requirements specified in subparagraph (C) of paragraph (4) of subdivision (b) or subparagraph (A) of paragraph (6) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. ~~The Employment Development Department shall develop a form for this purpose~~ *The Department of Housing and Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to Section 7114.2 of the Government Code and shall develop forms for this purpose.*

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d) (1) For purposes of this section, both of the following apply:

1 (A) All employees of trades or businesses that are under  
2 common control shall be treated as employed by a single  
3 employer.

4 (B) The credit (if any) allowable by this section with respect to  
5 each trade or business shall be determined by reference to its  
6 proportionate share of the qualified wages giving rise to the  
7 credit.

8 The regulations prescribed under this paragraph shall be based  
9 on principles similar to the principles that apply in the case of  
10 controlled groups of corporations as specified in subdivision (e)  
11 of Section 23622.

12 (2) If an employer acquires the major portion of a trade or  
13 business of another employer (hereinafter in this paragraph  
14 referred to as the “predecessor”) or the major portion of a  
15 separate unit of a trade or business of a predecessor, then, for  
16 purposes of applying this section (other than subdivision (d)) for  
17 any calendar year ending after that acquisition, the employment  
18 relationship between an employee and an employer shall not be  
19 treated as terminated if the employee continues to be employed  
20 in that trade or business.

21 (e) (1) (A) If the employment, other than seasonal  
22 employment, of any employee, with respect to whom qualified  
23 wages are taken into account under subdivision (a) is terminated  
24 by the taxpayer at any time during the first 270 days of that  
25 employment (whether or not consecutive) or before the close of  
26 the 270th calendar day after the day in which that employee  
27 completes 90 days of employment with the taxpayer, the tax  
28 imposed by this part for the taxable year in which that  
29 employment is terminated shall be increased by an amount  
30 (determined under those regulations) equal to the credit allowed  
31 under subdivision (a) for that taxable year and all prior taxable  
32 years attributable to qualified wages paid or incurred with respect  
33 to that employee.

34 (B) If the seasonal employment of any qualified disadvantaged  
35 individual, with respect to whom qualified wages are taken into  
36 account under subdivision (a) is not continued by the qualified  
37 taxpayer for a period of 270 days of employment during the  
38 60-month period beginning with the day the qualified  
39 disadvantaged individual commences seasonal employment with  
40 the qualified taxpayer, the tax imposed by this part, for the

1 taxable year that includes the 60th month following the month in  
2 which the qualified disadvantaged individual commences  
3 seasonal employment with the qualified taxpayer, shall be  
4 increased by an amount equal to the credit allowed under  
5 subdivision (a) for that taxable year and all prior taxable years  
6 attributable to qualified wages paid or incurred with respect to  
7 that qualified disadvantaged individual.

8 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to  
9 any of the following:

10 (i) A termination of employment of an employee who  
11 voluntarily leaves the employment of the taxpayer.

12 (ii) A termination of employment of an individual who, before  
13 the close of the period referred to in subparagraph (A) of  
14 paragraph (1), becomes disabled to perform the services of that  
15 employment, unless that disability is removed before the close of  
16 that period and the taxpayer fails to offer reemployment to that  
17 individual.

18 (iii) A termination of employment of an individual, if it is  
19 determined that the termination was due to the misconduct (as  
20 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of  
21 the California Code of Regulations) of that individual.

22 (iv) A termination of employment of an individual due to a  
23 substantial reduction in the trade or business operations of the  
24 taxpayer.

25 (v) A termination of employment of an individual, if that  
26 individual is replaced by other qualified employees so as to  
27 create a net increase in both the number of employees and the  
28 hours of employment.

29 (B) Subparagraph (B) of paragraph (1) shall not apply to any  
30 of the following:

31 (i) A failure to continue the seasonal employment of a  
32 qualified disadvantaged individual who voluntarily fails to return  
33 to the seasonal employment of the qualified taxpayer.

34 (ii) A failure to continue the seasonal employment of a  
35 qualified disadvantaged individual who, before the close of the  
36 period referred to in subparagraph (B) of paragraph (1), becomes  
37 disabled and unable to perform the services of that seasonal  
38 employment, unless that disability is removed before the close of  
39 that period and the qualified taxpayer fails to offer seasonal  
40 employment to that individual.

1 (iii) A failure to continue the seasonal employment of a  
2 qualified disadvantaged individual, if it is determined that the  
3 failure to continue the seasonal employment was due to the  
4 misconduct (as defined in Sections 1256-30 to 1256-43,  
5 inclusive, of Title 22 of the California Code of Regulations) of  
6 that qualified disadvantaged individual.

7 (iv) A failure to continue seasonal employment of a qualified  
8 disadvantaged individual due to a substantial reduction in the  
9 regular seasonal trade or business operations of the qualified  
10 taxpayer.

11 (v) A failure to continue the seasonal employment of a  
12 qualified disadvantaged individual, if that individual is replaced  
13 by other qualified displaced employees so as to create a net  
14 increase in both the number of seasonal employees and the hours  
15 of seasonal employment.

16 (C) For purposes of paragraph (1), the employment  
17 relationship between the taxpayer and an employee shall not be  
18 treated as terminated by reason of a mere change in the form of  
19 conducting the trade or business of the taxpayer, if the employee  
20 continues to be employed in that trade or business and the  
21 taxpayer retains a substantial interest in that trade or business.

22 (3) Any increase in tax under paragraph (1) shall not be treated  
23 as tax imposed by this part for purposes of determining the  
24 amount of any credit allowable under this part.

25 (4) At the close of the second taxable year, if the taxpayer has  
26 not increased the number of its employees as determined by  
27 paragraph (5) of subdivision (b), then the amount of the credit  
28 previously claimed shall be added to the taxpayer's net tax for  
29 the taxpayer's second taxable year.

30 (f) In the case of an estate or trust, both of the following apply:

31 (1) The qualified wages for any taxable year shall be  
32 apportioned between the estate or trust and the beneficiaries on  
33 the basis of the income of the estate or trust allocable to each.

34 (2) Any beneficiary to whom any qualified wages have been  
35 apportioned under paragraph (1) shall be treated (for purposes of  
36 this part) as the employer with respect to those wages.

37 (g) The credit shall be reduced by the credit allowed under  
38 Section 17053.7. The credit shall also be reduced by the federal  
39 credit allowed under Section 51 of the Internal Revenue Code.



1 In addition, any deduction otherwise allowed under this part  
2 for the wages or salaries paid or incurred by the taxpayer upon  
3 which the credit is based shall be reduced by the amount of the  
4 credit, prior to any reduction required by subdivision (h) or (i).

5 (h) In the case where the credit otherwise allowed under this  
6 section exceeds the “net tax” for the taxable year, that portion of  
7 the credit that exceeds the “net tax” may be carried over and  
8 added to the credit, if any, in succeeding years, until the credit is  
9 exhausted. The credit shall be applied first to the earliest taxable  
10 years possible.

11 (i) (1) The amount of credit otherwise allowed under this  
12 section and Section 17053.45, including prior year credit  
13 carryovers, that may reduce the “net tax” for the taxable year  
14 shall not exceed the amount of tax that would be imposed on the  
15 taxpayer’s business income attributed to a LAMBRA determined  
16 as if that attributed income represented all of the net income of  
17 the taxpayer subject to tax under this part.

18 (2) Attributable income shall be that portion of the taxpayer’s  
19 California source business income that is apportioned to the  
20 LAMBRA. For that purpose, the taxpayer’s business income that  
21 is attributable to sources in this state first shall be determined in  
22 accordance with Chapter 17 (commencing with Section 25101)  
23 of Part 11. That business income shall be further apportioned to  
24 the LAMBRA in accordance with Article 2 (commencing with  
25 Section 25120) of Chapter 17 of Part 11, modified for purposes  
26 of this section in accordance with paragraph (3).

27 (3) Income shall be apportioned to a LAMBRA by multiplying  
28 the total California business income of the taxpayer by a fraction,  
29 the numerator of which is the property factor plus the payroll  
30 factor, and the denominator of which is two. For purposes of this  
31 paragraph:

32 (A) The property factor is a fraction, the numerator of which is  
33 the average value of the taxpayer’s real and tangible personal  
34 property owned or rented and used in the LAMBRA during the  
35 taxable year, and the denominator of which is the average value  
36 of all the taxpayer’s real and tangible personal property owned or  
37 rented and used in this state during the taxable year.

38 (B) The payroll factor is a fraction, the numerator of which is  
39 the total amount paid by the taxpayer in the LAMBRA during the  
40 taxable year for compensation, and the denominator of which is

1 the total compensation paid by the taxpayer in this state during  
2 the taxable year.

3 (4) The portion of any credit remaining, if any, after  
4 application of this subdivision, shall be carried over to  
5 succeeding taxable years, as if it were an amount exceeding the  
6 “net tax” for the taxable year, as provided in subdivision (h).

7 (j) If the taxpayer is allowed a credit pursuant to this section  
8 for qualified wages paid or incurred, only one credit shall be  
9 allowed to the taxpayer under this part with respect to any wage  
10 consisting in whole or in part of those qualified wages.

11 SEC. 8. Section 17053.47 of the Revenue and Taxation Code  
12 is amended to read:

13 17053.47. (a) For each taxable year beginning on or after  
14 January 1, 1998, there shall be allowed a credit against the “net  
15 tax” (as defined in Section 17039) to a qualified taxpayer for  
16 hiring a qualified disadvantaged individual during the taxable  
17 year for employment in the Manufacturing Enhancement Area.  
18 The credit shall be equal to the sum of each of the following:

19 (1) Fifty percent of the qualified wages in the first year of  
20 employment.

21 (2) Forty percent of the qualified wages in the second year of  
22 employment.

23 (3) Thirty percent of the qualified wages in the third year of  
24 employment.

25 (4) Twenty percent of the qualified wages in the fourth year of  
26 employment.

27 (5) Ten percent of the qualified wages in the fifth year of  
28 employment.

29 (b) For purposes of this section:

30 (1) “Qualified wages” means:

31 (A) That portion of wages paid or incurred by the qualified  
32 taxpayer during the taxable year to qualified disadvantaged  
33 individuals that does not exceed 150 percent of the minimum  
34 wage.

35 (B) The total amount of qualified wages which may be taken  
36 into account for purposes of claiming the credit allowed under  
37 this section shall not exceed two million dollars (\$2,000,000) per  
38 taxable year.

39 (C) Wages received during the 60-month period beginning  
40 with the first day the qualified disadvantaged individual

1 commences employment with the qualified taxpayer.  
2 Reemployment in connection with any increase, including a  
3 regularly occurring seasonal increase, in the trade or business  
4 operations of the taxpayer does not constitute commencement of  
5 employment for purposes of this section.

6 (D) Qualified wages do not include any wages paid or incurred  
7 by the qualified taxpayer on or after the Manufacturing  
8 Enhancement Area expiration date. However, wages paid or  
9 incurred with respect to qualified employees who are employed  
10 by the qualified taxpayer within the Manufacturing Enhancement  
11 Area within the 60-month period prior to the Manufacturing  
12 Enhancement Area expiration date shall continue to qualify for  
13 the credit under this section after the Manufacturing  
14 Enhancement Area expiration date, in accordance with all  
15 provisions of this section applied as if the Manufacturing  
16 Enhancement Area designation were still in existence and  
17 binding.

18 (2) “Minimum wage” means the wage established by the  
19 Industrial Welfare Commission as provided for in Chapter 1  
20 (commencing with Section 1171) of Part 4 of Division 2 of the  
21 Labor Code.

22 (3) “Manufacturing Enhancement Area” means an area  
23 designated pursuant to Section 7073.8 of the Government Code  
24 according to the procedures of Chapter 12.8 (commencing with  
25 Section 7070) of Division 7 of Title 1 of the Government Code.

26 (4) “Manufacturing Enhancement Area expiration date” means  
27 the date the Manufacturing Enhancement Area designation  
28 expires, is no longer binding, or becomes inoperative.

29 (5) “Qualified disadvantaged individual” means an individual  
30 who satisfies all of the following requirements:

31 (A) (i) At least 90 percent of whose services for the qualified  
32 taxpayer during the taxable year are directly related to the  
33 conduct of the qualified taxpayer’s trade or business located in a  
34 Manufacturing Enhancement Area.

35 (ii) Who performs at least 50 percent of his or her services for  
36 the qualified taxpayer during the taxable year in the  
37 Manufacturing Enhancement Area.

38 (B) Who is hired by the qualified taxpayer after the  
39 designation of the area as a Manufacturing Enhancement Area in  
40 which the individual’s services were primarily performed.

1 (C) Who is any of the following immediately preceding the  
2 individual's commencement of employment with the qualified  
3 taxpayer:

4 (i) An individual who has been determined eligible for  
5 services under the federal Job Training Partnership Act (29  
6 U.S.C. Sec. 1501 et seq.), or its successor.

7 (ii) Any voluntary or mandatory registrant under the Greater  
8 Avenues for Independence Act of 1985, or its successor, as  
9 provided pursuant to Article 3.2 (commencing with Section  
10 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and  
11 Institutions Code.

12 (iii) Any individual who has been certified eligible by the  
13 Employment Development Department under the federal  
14 Targeted Jobs Tax Credit Program, or its successor, whether or  
15 not this program is in effect.

16 (6) "Qualified taxpayer" means any taxpayer engaged in a  
17 trade or business within a Manufacturing Enhancement Area  
18 designated pursuant to Section 7073.8 of the Government Code  
19 and who meets both of the following requirements:

20 (A) Is engaged in those lines of business described in Codes  
21 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,  
22 inclusive, of the Standard Industrial Classification (SIC) Manual  
23 published by the United States Office of Management and  
24 Budget, 1987 edition.

25 (B) At least 50 percent of the qualified taxpayer's workforce  
26 hired after the designation of the Manufacturing Enhancement  
27 Area is composed of individuals who, at the time of hire, are  
28 residents of the county in which the Manufacturing Enhancement  
29 Area is located.

30 (C) Of this percentage of local hires, at least 30 percent shall  
31 be qualified disadvantaged individuals.

32 (7) "Seasonal employment" means employment by a qualified  
33 taxpayer that has regular and predictable substantial reductions in  
34 trade or business operations.

35 (c) (1) For purposes of this section, all of the following apply:

36 (A) All employees of trades or businesses that are under  
37 common control shall be treated as employed by a single  
38 qualified taxpayer.

39 (B) The credit (if any) allowable by this section with respect to  
40 each trade or business shall be determined by reference to its

1 proportionate share of the expense of the qualified wages giving  
2 rise to the credit and shall be allocated in that manner.

3 (C) Principles that apply in the case of controlled groups of  
4 corporations, as specified in subdivision (d) of Section 23622.7,  
5 shall apply with respect to determining employment.

6 (2) If a qualified taxpayer acquires the major portion of a trade  
7 or business of another employer (hereinafter in this paragraph  
8 referred to as the “predecessor”) or the major portion of a  
9 separate unit of a trade or business of a predecessor, then, for  
10 purposes of applying this section (other than subdivision (d)) for  
11 any calendar year ending after that acquisition, the employment  
12 relationship between a qualified disadvantaged individual and a  
13 qualified taxpayer shall not be treated as terminated if the  
14 qualified disadvantaged individual continues to be employed in  
15 that trade or business.

16 (d) (1) (A) If the employment, other than seasonal  
17 employment, of any qualified disadvantaged individual, with  
18 respect to whom qualified wages are taken into account under  
19 subdivision (b) is terminated by the qualified taxpayer at any  
20 time during the first 270 days of that employment (whether or not  
21 consecutive) or before the close of the 270th calendar day after  
22 the day in which that qualified disadvantaged individual  
23 completes 90 days of employment with the qualified taxpayer,  
24 the tax imposed by this part for the taxable year in which that  
25 employment is terminated shall be increased by an amount equal  
26 to the credit allowed under subdivision (a) for that taxable year  
27 and all prior taxable years attributable to qualified wages paid or  
28 incurred with respect to that qualified disadvantaged individual.

29 (B) If the seasonal employment of any qualified disadvantaged  
30 individual, with respect to whom qualified wages are taken into  
31 account under subdivision (a) is not continued by the qualified  
32 taxpayer for a period of 270 days of employment during the  
33 60-month period beginning with the day the qualified  
34 disadvantaged individual commences seasonal employment with  
35 the qualified taxpayer, the tax imposed by this part, for the  
36 taxable year that includes the 60th month following the month in  
37 which the qualified disadvantaged individual commences  
38 seasonal employment with the qualified taxpayer, shall be  
39 increased by an amount equal to the credit allowed under  
40 subdivision (a) for that taxable year and all prior taxable years

1 attributable to qualified wages paid or incurred with respect to  
2 that qualified disadvantaged individual.

3 (2) (A) Subparagraph (A) of paragraph (1) does not apply to  
4 any of the following:

5 (i) A termination of employment of a qualified disadvantaged  
6 individual who voluntarily leaves the employment of the  
7 qualified taxpayer.

8 (ii) A termination of employment of a qualified disadvantaged  
9 individual who, before the close of the period referred to in  
10 subparagraph (A) of paragraph (1), becomes disabled to perform  
11 the services of that employment, unless that disability is removed  
12 before the close of that period and the taxpayer fails to offer  
13 reemployment to that individual.

14 (iii) A termination of employment of a qualified disadvantaged  
15 individual, if it is determined that the termination was due to the  
16 misconduct (as defined in Sections 1256-30 to 1256-43,  
17 inclusive, of Title 22 of the California Code of Regulations) of  
18 that individual.

19 (iv) A termination of employment of a qualified disadvantaged  
20 individual due to a substantial reduction in the trade or business  
21 operations of the qualified taxpayer.

22 (v) A termination of employment of a qualified disadvantaged  
23 individual, if that individual is replaced by other qualified  
24 disadvantaged individuals so as to create a net increase in both  
25 the number of employees and the hours of employment.

26 (B) Subparagraph (B) of paragraph (1) shall not apply to any  
27 of the following:

28 (i) A failure to continue the seasonal employment of a  
29 qualified disadvantaged individual who voluntarily fails to return  
30 to the seasonal employment of the qualified taxpayer.

31 (ii) A failure to continue the seasonal employment of a  
32 qualified disadvantaged individual who, before the close of the  
33 period referred to in subparagraph (B) of paragraph (1), becomes  
34 disabled and unable to perform the services of that seasonal  
35 employment, unless that disability is removed before the close of  
36 that period and the qualified taxpayer fails to offer seasonal  
37 employment to that qualified disadvantaged individual.

38 (iii) A failure to continue the seasonal employment of a  
39 qualified disadvantaged individual, if it is determined that the  
40 failure to continue the seasonal employment was due to the

1 misconduct (as defined in Sections 1256-30 to 1256-43,  
2 inclusive, of Title 22 of the California Code of Regulations) of  
3 that qualified disadvantaged individual.

4 (iv) A failure to continue seasonal employment of a qualified  
5 disadvantaged individual due to a substantial reduction in the  
6 regular seasonal trade or business operations of the qualified  
7 taxpayer.

8 (v) A failure to continue the seasonal employment of a  
9 qualified disadvantaged individual, if that qualified  
10 disadvantaged individual is replaced by other qualified  
11 disadvantaged individuals so as to create a net increase in both  
12 the number of seasonal employees and the hours of seasonal  
13 employment.

14 (C) For purposes of paragraph (1), the employment  
15 relationship between the qualified taxpayer and a qualified  
16 disadvantaged individual shall not be treated as terminated by  
17 reason of a mere change in the form of conducting the trade or  
18 business of the qualified taxpayer, if the qualified disadvantaged  
19 individual continues to be employed in that trade or business and  
20 the qualified taxpayer retains a substantial interest in that trade or  
21 business.

22 (3) Any increase in tax under paragraph (1) shall not be treated  
23 as tax imposed by this part for purposes of determining the  
24 amount of any credit allowable under this part.

25 (e) In the case of an estate or trust, both of the following  
26 apply:

27 (1) The qualified wages for any taxable year shall be  
28 apportioned between the estate or trust and the beneficiaries on  
29 the basis of the income of the estate or trust allocable to each.

30 (2) Any beneficiary to whom any qualified wages have been  
31 apportioned under paragraph (1) shall be treated (for purposes of  
32 this part) as the employer with respect to those wages.

33 (f) The credit shall be reduced by the credit allowed under  
34 Section 17053.7. The credit shall also be reduced by the federal  
35 credit allowed under Section 51 of the Internal Revenue Code.

36 In addition, any deduction otherwise allowed under this part  
37 for the wages or salaries paid or incurred by the qualified  
38 taxpayer upon which the credit is based shall be reduced by the  
39 amount of the credit, prior to any reduction required by  
40 subdivision (g) or (h).

(g) In the case where the credit otherwise allowed under this section exceeds the “net tax” for the taxable year, that portion of the credit that exceeds the “net tax” may be carried over and added to the credit, if any, in succeeding years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(h) (1) The amount of credit otherwise allowed under this section, including prior year credit carryovers, that may reduce the “net tax” for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer’s business income attributed to a Manufacturing Enhancement Area determined as if that attributed income represented all of the net income of the qualified taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer’s California source business income that is apportioned to the Manufacturing Enhancement Area. For that purpose, the taxpayer’s business income that is attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the Manufacturing Enhancement Area in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Income shall be apportioned to a Manufacturing Enhancement Area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer’s real and tangible personal property owned or rented and used in the Manufacturing Enhancement Area during the taxable year, and the denominator of which is the average value of all the taxpayer’s real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the Manufacturing Enhancement Area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.



(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the “net tax” for the taxable year, as provided in subdivision (g).

(i) If the taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed to the taxpayer under this part with respect to any wage consisting in whole or in part of those qualified wages.

(j) *The qualified taxpayer shall do both of the following:*

(1) *Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the manufacturing enhancement area, a certification that provides that a qualified disadvantaged individual meets the eligibility requirements specified in of paragraph (5) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to subdivision (d) of Section 7086 of the Government Code and shall develop forms for this purpose.*

(2) *Retain a copy of the certification and provide it upon request to the Franchise Tax Board.*

SEC. 9. Section 23622.8 of the Revenue and Taxation Code is amended to read:

23622.8. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the “tax” (as defined in Section 23036) to a qualified taxpayer for hiring a qualified disadvantaged individual during the taxable year for employment in the Manufacturing Enhancement Area. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of the qualified wages in the first year of employment.

(2) Forty percent of the qualified wages in the second year of employment.

(3) Thirty percent of the qualified wages in the third year of employment.

(4) Twenty percent of the qualified wages in the fourth year of employment.

(5) Ten percent of the qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) “Qualified wages” means:

(A) That portion of wages paid or incurred by the qualified taxpayer during the taxable year to qualified disadvantaged individuals that does not exceed 150 percent of the minimum wage.

(B) The total amount of qualified wages which may be taken into account for purposes of claiming the credit allowed under this section shall not exceed two million dollars (\$2,000,000) per taxable year.

(C) Wages received during the 60-month period beginning with the first day the qualified disadvantaged individual commences employment with the qualified taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the qualified taxpayer does not constitute commencement of employment for purposes of this section.

(D) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the Manufacturing Enhancement Area expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the qualified taxpayer within the Manufacturing Enhancement Area within the 60-month period prior to the Manufacturing Enhancement Area expiration date shall continue to qualify for the credit under this section after the Manufacturing Enhancement Area expiration date, in accordance with all provisions of this section applied as if the Manufacturing Enhancement Area designation were still in existence and binding.

(2) “Minimum wage” means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) “Manufacturing Enhancement Area” means an area designated pursuant to Section 7073.8 of the Government Code

1 according to the procedures of Chapter 12.8 (commencing with  
2 Section 7070) of Division 7 of Title 1 of the Government Code.

3 (4) “Manufacturing Enhancement Area expiration date” means  
4 the date the Manufacturing Enhancement Area designation  
5 expires, is no longer binding, or becomes inoperative.

6 (5) “Qualified disadvantaged individual” means an individual  
7 who satisfies all of the following requirements:

8 (A) (i) At least 90 percent of whose services for the qualified  
9 taxpayer during the taxable year are directly related to the  
10 conduct of the qualified taxpayer’s trade or business located in a  
11 Manufacturing Enhancement Area.

12 (ii) Who performs at least 50 percent of his or her services for  
13 the qualified taxpayer during the taxable year in the  
14 Manufacturing Enhancement Area.

15 (B) Who is hired by the qualified taxpayer after the  
16 designation of the area as a Manufacturing Enhancement Area in  
17 which the individual’s services were primarily performed.

18 (C) Who is any of the following immediately preceding the  
19 individual’s commencement of employment with the qualified  
20 taxpayer:

21 (i) An individual who has been determined eligible for  
22 services under the federal Job Training Partnership Act (29  
23 U.S.C. Sec. 1501 et seq.) or its successor.

24 (ii) Any voluntary or mandatory registrant under the Greater  
25 Avenues for Independence Act of 1985, or its successor, as  
26 provided pursuant to Article 3.2 (commencing with Section  
27 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and  
28 Institutions Code.

29 (iii) Any individual who has been certified eligible by the  
30 Employment Development Department under the federal  
31 Targeted Jobs Tax Credit Program, or its successor, whether or  
32 not this program is in effect.

33 (6) “Qualified taxpayer” means any corporation engaged in a  
34 trade or business within a Manufacturing Enhancement Area  
35 designated pursuant to Section 7073.8 of the Government Code  
36 and that meets all of the following requirements:

37 (A) Is engaged in those lines of business described in Codes  
38 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,  
39 inclusive, of the Standard Industrial Classification (SIC) Manual

1 published by the United States Office of Management and  
2 Budget, 1987 edition.

3 (B) At least 50 percent of the qualified taxpayer's workforce  
4 hired after the designation of the Manufacturing Enhancement  
5 Area is composed of individuals who, at the time of hire, are  
6 residents of the county in which the Manufacturing Enhancement  
7 Area is located.

8 (C) Of this percentage of local hires, at least 30 percent shall  
9 be qualified disadvantaged individuals.

10 (7) "Seasonal employment" means employment by a qualified  
11 taxpayer that has regular and predictable substantial reductions in  
12 trade or business operations.

13 (c) (1) For purposes of this section, all of the following apply:

14 (A) All employees of all corporations that are members of the  
15 same controlled group of corporations shall be treated as  
16 employed by a single qualified taxpayer.

17 (B) The credit (if any) allowable by this section with respect to  
18 each member shall be determined by reference to its  
19 proportionate share of the expenses of the qualified wages giving  
20 rise to the credit and shall be allocated in that manner.

21 (C) Principles that apply in the case of controlled groups of  
22 corporations, as specified in subdivision (d) of Section 23622.7,  
23 shall apply with respect to determining employment.

24 (2) If a qualified taxpayer acquires the major portion of a trade  
25 or business of another employer (hereinafter in this paragraph  
26 referred to as the "predecessor") or the major portion of a  
27 separate unit of a trade or business of a predecessor, then, for  
28 purposes of applying this section (other than subdivision (d)) for  
29 any calendar year ending after that acquisition, the employment  
30 relationship between a qualified disadvantaged individual and a  
31 qualified taxpayer shall not be treated as terminated if the  
32 qualified disadvantaged individual continues to be employed in  
33 that trade or business.

34 (d) (1) (A) If the employment, other than seasonal  
35 employment, of any qualified disadvantaged individual, with  
36 respect to whom qualified wages are taken into account under  
37 subdivision (b) is terminated by the qualified taxpayer at any  
38 time during the first 270 days of that employment (whether or not  
39 consecutive) or before the close of the 270th calendar day after  
40 the day in which that qualified disadvantaged individual

1 completes 90 days of employment with the qualified taxpayer,  
2 the tax imposed by this part for the taxable year in which that  
3 employment is terminated shall be increased by an amount equal  
4 to the credit allowed under subdivision (a) for that taxable year  
5 and all prior taxable years attributable to qualified wages paid or  
6 incurred with respect to that qualified disadvantaged individual.

7 (B) If the seasonal employment of any qualified disadvantaged  
8 individual, with respect to whom qualified wages are taken into  
9 account under subdivision (a) is not continued by the qualified  
10 taxpayer for a period of 270 days of employment during the  
11 60-month period beginning with the day the qualified  
12 disadvantaged individual commences seasonal employment with  
13 the qualified taxpayer, the tax imposed by this part, for the  
14 income year that includes the 60th month following the month in  
15 which the qualified disadvantaged individual commences  
16 seasonal employment with the qualified taxpayer, shall be  
17 increased by an amount equal to the credit allowed under  
18 subdivision (a) for that taxable year and all prior taxable years  
19 attributable to qualified wages paid or incurred with respect to  
20 that qualified disadvantaged individual.

21 (2) (A) Subparagraph (A) of paragraph (1) does not apply to  
22 any of the following:

23 (i) A termination of employment of a qualified disadvantaged  
24 individual who voluntarily leaves the employment of the  
25 qualified taxpayer.

26 (ii) A termination of employment of a qualified disadvantaged  
27 individual who, before the close of the period referred to in  
28 subparagraph (A) of paragraph (1), becomes disabled to perform  
29 the services of that employment, unless that disability is removed  
30 before the close of that period and the qualified taxpayer fails to  
31 offer reemployment to that individual.

32 (iii) A termination of employment of a qualified disadvantaged  
33 individual, if it is determined that the termination was due to the  
34 misconduct (as defined in Sections 1256-30 to 1256-43,  
35 inclusive, of Title 22 of the California Code of Regulations) of  
36 that individual.

37 (iv) A termination of employment of a qualified disadvantaged  
38 individual due to a substantial reduction in the trade or business  
39 operations of the qualified taxpayer.

1 (v) A termination of employment of a qualified disadvantaged  
2 individual, if that individual is replaced by other qualified  
3 disadvantaged individuals so as to create a net increase in both  
4 the number of employees and the hours of employment.

5 (B) Subparagraph (B) of paragraph (1) shall not apply to any  
6 of the following:

7 (i) A failure to continue the seasonal employment of a  
8 qualified disadvantaged individual who voluntarily fails to return  
9 to the seasonal employment of the qualified taxpayer.

10 (ii) A failure to continue the seasonal employment of a  
11 qualified disadvantaged individual who, before the close of the  
12 period referred to in subparagraph (B) of paragraph (1), becomes  
13 disabled and unable to perform the services of that seasonal  
14 employment, unless that disability is removed before the close of  
15 that period and the qualified taxpayer fails to offer seasonal  
16 employment to that qualified disadvantaged individual.

17 (iii) A failure to continue the seasonal employment of a  
18 qualified disadvantaged individual, if it is determined that the  
19 failure to continue the seasonal employment was due to the  
20 misconduct (as defined in Sections 1256-30 to 1256-43,  
21 inclusive, of Title 22 of the California Code of Regulations) of  
22 that qualified disadvantaged individual.

23 (iv) A failure to continue seasonal employment of a qualified  
24 disadvantaged individual due to a substantial reduction in the  
25 regular seasonal trade or business operations of the qualified  
26 taxpayer.

27 (v) A failure to continue the seasonal employment of a  
28 qualified disadvantaged individual, if that qualified  
29 disadvantaged individual is replaced by other qualified  
30 disadvantaged individuals so as to create a net increase in both  
31 the number of seasonal employees and the hours of seasonal  
32 employment.

33 (C) For purposes of paragraph (1), the employment  
34 relationship between the qualified taxpayer and a qualified  
35 disadvantaged individual shall not be treated as terminated by  
36 either of the following:

37 (i) By a transaction to which Section 381(a) of the Internal  
38 Revenue Code applies, if the qualified disadvantaged individual  
39 continues to be employed by the acquiring corporation.

(ii) By reason of a mere change in the form of conducting the trade or business of the qualified taxpayer, if the qualified disadvantaged individual continues to be employed in that trade or business and the qualified taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(e) The credit shall be reduced by the credit allowed under Section 23621. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the qualified taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (f) or (g).

(f) In the case where the credit otherwise allowed under this section exceeds the “tax” for the taxable year, that portion of the credit that exceeds the “tax” may be carried over and added to the credit, if any, in succeeding years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(g) (1) The amount of credit otherwise allowed under this section, including prior year credit carryovers, that may reduce the “tax” for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer’s business income attributed to a Manufacturing Enhancement Area determined as if that attributed income represented all of the net income of the qualified taxpayer subject to tax under this part.

(2) Attributable income is that portion of the taxpayer’s California source business income that is apportioned to the Manufacturing Enhancement Area. For that purpose, the taxpayer’s business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the Manufacturing Enhancement Area in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

(3) Income shall be apportioned to a Manufacturing Enhancement Area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For the purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the Manufacturing Enhancement Area during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the Manufacturing Enhancement Area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (g).

(h) If the taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed to the taxpayer under this part with respect to any wage consisting in whole or in part of those qualified wages.

(i) *The qualified taxpayer shall do both of the following:*

(1) *Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the manufacturing enhancement area, a certification that provides that a qualified disadvantaged individual meets the eligibility requirements specified in paragraph (5) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to subdivision (d) of Section 7086 of the Government Code and shall develop forms for this purpose.*



1     (2) *Retain a copy of the certification and provide it upon*  
2     *request to the Franchise Tax Board.*

3     SEC. 10. Section 23634 of the Revenue and Taxation Code is  
4     amended to read:

5     23634. (a) For each taxable year beginning on or after  
6     January 1, 1998, there shall be allowed a credit against the “tax”  
7     (as defined by Section 23036) to a qualified taxpayer who  
8     employs a qualified employee in a targeted tax area during the  
9     taxable year. The credit shall be equal to the sum of each of the  
10    following:

11    (1) Fifty percent of qualified wages in the first year of  
12    employment.

13    (2) Forty percent of qualified wages in the second year of  
14    employment.

15    (3) Thirty percent of qualified wages in the third year of  
16    employment.

17    (4) Twenty percent of qualified wages in the fourth year of  
18    employment.

19    (5) Ten percent of qualified wages in the fifth year of  
20    employment.

21    (b) For purposes of this section:

22    (1) “Qualified wages” means:

23    (A) That portion of wages paid or incurred by the qualified  
24    taxpayer during the taxable year to qualified employees that does  
25    not exceed 150 percent of the minimum wage.

26    (B) Wages received during the 60-month period beginning  
27    with the first day the employee commences employment with the  
28    qualified taxpayer. Reemployment in connection with any  
29    increase, including a regularly occurring seasonal increase, in the  
30    trade or business operations of the qualified taxpayer does not  
31    constitute commencement of employment for purposes of this  
32    section.

33    (C) Qualified wages do not include any wages paid or incurred  
34    by the qualified taxpayer on or after the targeted tax area  
35    expiration date. However, wages paid or incurred with respect to  
36    qualified employees who are employed by the qualified taxpayer  
37    within the targeted tax area within the 60-month period prior to  
38    the targeted tax area expiration date shall continue to qualify for  
39    the credit under this section after the targeted tax area expiration  
40    date, in accordance with all provisions of this section applied as

1 if the targeted tax area designation were still in existence and  
2 binding.

3 (2) “Minimum wage” means the wage established by the  
4 Industrial Welfare Commission as provided for in Chapter 1  
5 (commencing with Section 1171) of Part 4 of Division 2 of the  
6 Labor Code.

7 (3) “Targeted tax area expiration date” means the date the  
8 targeted tax area designation expires, is revoked, is no longer  
9 binding, or becomes inoperative.

10 (4) (A) “Qualified employee” means an individual who meets  
11 all of the following requirements:

12 (i) At least 90 percent of his or her services for the qualified  
13 taxpayer during the taxable year are directly related to the  
14 conduct of the qualified taxpayer’s trade or business located in a  
15 targeted tax area.

16 (ii) Performs at least 50 percent of his or her services for the  
17 qualified taxpayer during the taxable year in a targeted tax area.

18 (iii) Is hired by the qualified taxpayer after the date of original  
19 designation of the area in which services were performed as a  
20 targeted tax area.

21 (iv) Is any of the following:

22 (I) Immediately preceding the qualified employee’s  
23 commencement of employment with the qualified taxpayer, was  
24 a person eligible for services under the federal Job Training  
25 Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,  
26 who is receiving, or is eligible to receive, subsidized  
27 employment, training, or services funded by the federal Job  
28 Training Partnership Act, or its successor.

29 (II) Immediately preceding the qualified employee’s  
30 commencement of employment with the qualified taxpayer, was  
31 a person eligible to be a voluntary or mandatory registrant under  
32 the Greater Avenues for Independence Act of 1985 (GAIN)  
33 provided for pursuant to Article 3.2 (commencing with Section  
34 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and  
35 Institutions Code, or its successor.

36 (III) Immediately preceding the qualified employee’s  
37 commencement of employment with the qualified taxpayer, was  
38 an economically disadvantaged individual 14 years of age or  
39 older.

1 (IV) Immediately preceding the qualified employee's  
2 commencement of employment with the qualified taxpayer, was  
3 a dislocated worker who meets any of the following:

4 (aa) Has been terminated or laid off or who has received a  
5 notice of termination or layoff from employment, is eligible for  
6 or has exhausted entitlement to unemployment insurance  
7 benefits, and is unlikely to return to his or her previous industry  
8 or occupation.

9 (bb) Has been terminated or has received a notice of  
10 termination of employment as a result of any permanent closure  
11 or any substantial layoff at a plant, facility, or enterprise,  
12 including an individual who has not received written notification  
13 but whose employer has made a public announcement of the  
14 closure or layoff.

15 (cc) Is long-term unemployed and has limited opportunities for  
16 employment or reemployment in the same or a similar  
17 occupation in the area in which the individual resides, including  
18 an individual 55 years of age or older who may have substantial  
19 barriers to employment by reason of age.

20 (dd) Was self-employed (including farmers and ranchers) and  
21 is unemployed as a result of general economic conditions in the  
22 community in which he or she resides or because of natural  
23 disasters.

24 (ee) Was a civilian employee of the Department of Defense  
25 employed at a military installation being closed or realigned  
26 under the Defense Base Closure and Realignment Act of 1990.

27 (ff) Was an active member of the armed forces or National  
28 Guard as of September 30, 1990, and was either involuntarily  
29 separated or separated pursuant to a special benefits program.

30 (gg) Is a seasonal or migrant worker who experiences chronic  
31 seasonal unemployment and underemployment in the agriculture  
32 industry, aggravated by continual advancements in technology  
33 and mechanization.

34 (hh) Has been terminated or laid off, or has received a notice  
35 of termination or layoff, as a consequence of compliance with the  
36 Clean Air Act.

37 (V) Immediately preceding the qualified employee's  
38 commencement of employment with the qualified taxpayer, was  
39 a disabled individual who is eligible for or enrolled in, or has  
40 completed a state rehabilitation plan or is a service-connected

1 disabled veteran, veteran of the Vietnam era, or veteran who is  
2 recently separated from military service.

3 (VI) Immediately preceding the qualified employee's  
4 commencement of employment with the qualified taxpayer, was  
5 an ex-offender. An individual shall be treated as convicted if he  
6 or she was placed on probation by a state court without a finding  
7 of guilt.

8 (VII) Immediately preceding the qualified employee's  
9 commencement of employment with the qualified taxpayer, was  
10 a person eligible for or a recipient of any of the following:

11 (aa) Federal Supplemental Security Income benefits.

12 (bb) Aid to Families with Dependent Children.

13 (cc) Food stamps.

14 (dd) State and local general assistance.

15 (VIII) Immediately preceding the qualified employee's  
16 commencement of employment with the qualified taxpayer, was  
17 a member of a federally recognized Indian tribe, band, or other  
18 group of Native American descent.

19 (IX) Immediately preceding the qualified employee's  
20 commencement of employment with the qualified taxpayer, was  
21 a resident of a targeted tax area.

22 (X) Immediately preceding the qualified employee's  
23 commencement of employment with the taxpayer, was a member  
24 of a targeted group, as defined in Section 51(d) of the Internal  
25 Revenue Code, or its successor.

26 (B) Priority for employment shall be provided to an individual  
27 who is enrolled in a qualified program under the federal Job  
28 Training Partnership Act or the Greater Avenues for  
29 Independence Act of 1985 or who is eligible as a member of a  
30 targeted group under the Work Opportunity Tax Credit (Section  
31 51 of the Internal Revenue Code), or its successor.

32 (5) (A) "Qualified taxpayer" means a person or entity that  
33 meets both of the following:

34 (i) Is engaged in a trade or business within a targeted tax area  
35 designated pursuant to Chapter 12.93 (commencing with Section  
36 7097) of Division 7 of Title 1 of the Government Code.

37 (ii) Is engaged in those lines of business described in Codes  
38 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,  
39 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,  
40 of the Standard Industrial Classification (SIC) Manual published

1 by the United States Office of Management and Budget, 1987  
2 edition.

3 (B) In the case of any pass-through entity, the determination of  
4 whether a taxpayer is a qualified taxpayer under this section shall  
5 be made at the entity level and any credit under this section or  
6 Section 17053.34 shall be allowed to the pass-through entity and  
7 passed through to the partners or shareholders in accordance with  
8 applicable provisions of this part or Part 10 (commencing with  
9 Section 17001). For purposes of this subparagraph, the term  
10 “pass-through entity” means any partnership or S corporation.

11 (6) “Seasonal employment” means employment by a qualified  
12 taxpayer that has regular and predictable substantial reductions in  
13 trade or business operations.

14 (c) If the qualified taxpayer is allowed a credit for qualified  
15 wages pursuant to this section, only one credit shall be allowed to  
16 the taxpayer under this part with respect to those qualified wages.

17 (d) The qualified taxpayer shall do both of the following:

18 (1) Obtain from ~~either—the Employment Development~~  
19 ~~Department, as permitted by federal law, or—the local county or~~  
20 ~~city Job Training Partnership Act administrative entity—or, the~~  
21 ~~local county GAIN office or social services agency, as~~  
22 ~~appropriate or the local government administering the targeted~~  
23 ~~tax area,~~ a certification that provides that a qualified employee  
24 meets the eligibility requirements specified in clause (iv) of  
25 subparagraph (A) of paragraph (4) of subdivision (b). The  
26 Employment Development Department may provide preliminary  
27 screening and referral to a certifying agency. ~~The Employment~~  
28 ~~Development Department shall develop a form for this purpose~~  
29 *The Department of Housing and Community Development shall*  
30 *develop regulations governing the issuance of certificates by*  
31 *local governments pursuant to subdivision (g) of Section 7097 of*  
32 *the Government Code and shall develop forms for this purpose.*

33 (2) Retain a copy of the certification and provide it upon  
34 request to the Franchise Tax Board.

35 (e) (1) For purposes of this section:

36 (A) All employees of all corporations that are members of the  
37 same controlled group of corporations shall be treated as  
38 employed by a single taxpayer.

39 (B) The credit, if any, allowable by this section to each  
40 member shall be determined by reference to its proportionate

1 share of the expense of the qualified wages giving rise to the  
2 credit, and shall be allocated in that manner.

3 (C) For purposes of this subdivision, “controlled group of  
4 corporations” means “controlled group of corporations” as  
5 defined in Section 1563(a) of the Internal Revenue Code, except  
6 that:

7 (i) “More than 50 percent” shall be substituted for “at least 80  
8 percent” each place it appears in Section 1563(a)(1) of the  
9 Internal Revenue Code.

10 (ii) The determination shall be made without regard to  
11 subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal  
12 Revenue Code.

13 (2) If an employer acquires the major portion of a trade or  
14 business of another employer (hereinafter in this paragraph  
15 referred to as the “predecessor”) or the major portion of a  
16 separate unit of a trade or business of a predecessor, then, for  
17 purposes of applying this section (other than subdivision (f)) for  
18 any calendar year ending after that acquisition, the employment  
19 relationship between a qualified employee and an employer shall  
20 not be treated as terminated if the employee continues to be  
21 employed in that trade or business.

22 (f) (1) (A) If the employment, other than seasonal  
23 employment, of any qualified employee with respect to whom  
24 qualified wages are taken into account under subdivision (a) is  
25 terminated by the qualified taxpayer at any time during the first  
26 270 days of that employment (whether or not consecutive) or  
27 before the close of the 270th calendar day after the day in which  
28 that employee completes 90 days of employment with the  
29 qualified taxpayer, the tax imposed by this part for the taxable  
30 year in which that employment is terminated shall be increased  
31 by an amount equal to the credit allowed under subdivision (a)  
32 for that taxable year and all prior taxable years attributable to  
33 qualified wages paid or incurred with respect to that employee.

34 (B) If the seasonal employment of any qualified employee,  
35 with respect to whom qualified wages are taken into account  
36 under subdivision (a) is not continued by the qualified taxpayer  
37 for a period of 270 days of employment during the 60-month  
38 period beginning with the day the qualified employee  
39 commences seasonal employment with the qualified taxpayer,  
40 the tax imposed by this part, for the taxable year that includes the

60th month following the month in which the qualified employee commences seasonal employment with the qualified taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of a qualified employee who voluntarily leaves the employment of the qualified taxpayer.

(ii) A termination of employment of a qualified employee who, before the close of the period referred to in subparagraph (A) of paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer reemployment to that employee.

(iii) A termination of employment of a qualified employee, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that employee.

(iv) A termination of employment of a qualified employee due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of a qualified employee, if that employee is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified employee who voluntarily fails to return to the seasonal employment of the qualified taxpayer.

(ii) A failure to continue the seasonal employment of a qualified employee who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer seasonal employment to that qualified employee.

1 (iii) A failure to continue the seasonal employment of a  
2 qualified employee, if it is determined that the failure to continue  
3 the seasonal employment was due to the misconduct (as defined  
4 in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the  
5 California Code of Regulations) of that qualified employee.

6 (iv) A failure to continue seasonal employment of a qualified  
7 employee due to a substantial reduction in the regular seasonal  
8 trade or business operations of the qualified taxpayer.

9 (v) A failure to continue the seasonal employment of a  
10 qualified employee, if that qualified employee is replaced by  
11 other qualified employees so as to create a net increase in both  
12 the number of seasonal employees and the hours of seasonal  
13 employment.

14 (C) For purposes of paragraph (1), the employment  
15 relationship between the qualified taxpayer and a qualified  
16 employee shall not be treated as terminated by either of the  
17 following:

18 (i) By a transaction to which Section 381(a) of the Internal  
19 Revenue Code applies, if the qualified employee continues to be  
20 employed by the acquiring corporation.

21 (ii) By reason of a mere change in the form of conducting the  
22 trade or business of the qualified taxpayer, if the qualified  
23 employee continues to be employed in that trade or business and  
24 the qualified taxpayer retains a substantial interest in that trade or  
25 business.

26 (3) Any increase in tax under paragraph (1) shall not be treated  
27 as tax imposed by this part for purposes of determining the  
28 amount of any credit allowable under this part.

29 (g) Rules similar to the rules provided in Sections 46(e) and  
30 (h) of the Internal Revenue Code shall apply to both of the  
31 following:

32 (1) An organization to which Section 593 of the Internal  
33 Revenue Code applies.

34 (2) A regulated investment company or a real estate  
35 investment trust subject to taxation under this part.

36 (h) For purposes of this section, “targeted tax area” means an  
37 area designated pursuant to Chapter 12.93 (commencing with  
38 Section 7097) of Division 7 of Title 1 of the Government Code.

39 (i) In the case where the credit otherwise allowed under this  
40 section exceeds the “tax” for the taxable year, that portion of the



credit that exceeds the “tax” may be carried over and added to the credit, if any, in succeeding taxable years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 23633, including any credit carryover from prior years, that may reduce the “tax” for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer’s business income attributable to the targeted tax area determined as if that attributable income represented all of the income of the qualified taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer’s California source business income that is apportioned to the targeted tax area. For that purpose, the taxpayer’s business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the targeted tax area in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the targeted tax area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer’s real and tangible personal property owned or rented and used in the targeted tax area during the taxable year, and the denominator of which is the average value of all the taxpayer’s real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the targeted tax area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to

1 succeeding taxable years, as if it were an amount exceeding the  
2 “tax” for the taxable year, as provided in subdivision (h).

3 (5) In the event that a credit carryover is allowable under  
4 subdivision (h) for any taxable year after the targeted tax area  
5 designation has expired or been revoked, the targeted tax area  
6 shall be deemed to remain in existence for purposes of  
7 computing the limitation specified in this subdivision.

8 SEC. 11. Section 23646 of the Revenue and Taxation Code is  
9 amended to read:

10 23646. (a) For each taxable year beginning on or after  
11 January 1, 1995, there shall be allowed as a credit against the  
12 “tax” (as defined in Section 23036) to a qualified taxpayer for  
13 hiring a qualified disadvantaged individual or a qualified  
14 displaced employee during the taxable year for employment in  
15 the LAMBRA. The credit shall be equal to the sum of each of the  
16 following:

17 (1) Fifty percent of the qualified wages in the first year of  
18 employment.

19 (2) Forty percent of the qualified wages in the second year of  
20 employment.

21 (3) Thirty percent of the qualified wages in the third year of  
22 employment.

23 (4) Twenty percent of the qualified wages in the fourth year of  
24 employment.

25 (5) Ten percent of the qualified wages in the fifth year of  
26 employment.

27 (b) For purposes of this section:

28 (1) “Qualified wages” means:

29 (A) That portion of wages paid or incurred by the employer  
30 during the taxable year to qualified disadvantaged individuals or  
31 qualified displaced employees that does not exceed 150 percent  
32 of the minimum wage.

33 (B) The total amount of qualified wages which may be taken  
34 into account for purposes of claiming the credit allowed under  
35 this section shall not exceed two million dollars (\$2,000,000) per  
36 taxable year.

37 (C) Wages received during the 60-month period beginning  
38 with the first day the individual commences employment with the  
39 taxpayer. Reemployment in connection with any increase,  
40 including a regularly occurring seasonal increase, in the trade or

1 business operation of the qualified taxpayer does not constitute  
2 commencement of employment for purposes of this section.

3 (D) Qualified wages do not include any wages paid or incurred  
4 by the qualified taxpayer on or after the LAMBRA expiration  
5 date. However, wages paid or incurred with respect to qualified  
6 disadvantaged individuals or qualified displaced employees who  
7 are employed by the qualified taxpayer within the LAMBRA  
8 within the 60-month period prior to the LAMBRA expiration  
9 date shall continue to qualify for the credit under this section  
10 after the LAMBRA expiration date, in accordance with all  
11 provisions of this section applied as if the LAMBRA designation  
12 were still in existence and binding.

13 (2) “Minimum wage” means the wage established by the  
14 Industrial Welfare Commission as provided for in Chapter 1  
15 (commencing with Section 1171) of Part 4 of Division 2 of the  
16 Labor Code.

17 (3) “LAMBRA” means a local agency military base recovery  
18 area designated in accordance with the provisions of Section  
19 7114 of the Government Code.

20 (4) “Qualified disadvantaged individual” means an individual  
21 who satisfies all of the following requirements:

22 (A) (i) At least 90 percent of whose services for the taxpayer  
23 during the taxable year are directly related to the conduct of the  
24 taxpayer’s trade or business located in a LAMBRA.

25 (ii) Who performs at least 50 percent of his or her services for  
26 the taxpayer during the taxable year in the LAMBRA.

27 (B) Who is hired by the employer after the designation of the  
28 area as a LAMBRA in which the individual’s services were  
29 primarily performed.

30 (C) Who is any of the following immediately preceding the  
31 individual’s commencement of employment with the taxpayer:

32 (i) An individual who has been determined eligible for  
33 services under the federal Job Training Partnership Act (29  
34 U.S.C. Sec. 1501 et seq.), or its successor.

35 (ii) Any voluntary or mandatory registrant under the Greater  
36 Avenues for Independence Act of 1985 provided for pursuant to  
37 Article 3.2 (commencing with Section 11320) of Chapter 2 of  
38 Part 3 of Division 9 of the Welfare and Institutions Code.

39 (iii) An economically disadvantaged individual age 16 years or  
40 older.

1 (iv) A dislocated worker who meets any of the following  
2 conditions:

3 (I) Has been terminated or laid off or who has received a  
4 notice of termination or layoff from employment, is eligible for  
5 or has exhausted entitlement to unemployment insurance  
6 benefits, and is unlikely to return to his or her previous industry  
7 or occupation.

8 (II) Has been terminated or has received a notice of  
9 termination of employment as a result of any permanent closure  
10 or any substantial layoff at a plant, facility, or enterprise,  
11 including an individual who has not received written notification  
12 but whose employer has made a public announcement of such a  
13 closure or layoff.

14 (III) Is long-term unemployed and has limited opportunities  
15 for employment or reemployment in the same or a similar  
16 occupation in the area in which the individual resides, including  
17 an individual 55 years of age or older who may have substantial  
18 barriers to employment by reason of age.

19 (IV) Was self-employed (including farmers and ranchers) and  
20 is unemployed as a result of general economic conditions in the  
21 community in which he or she resides or because of natural  
22 disasters.

23 (V) Was a civilian employee of the Department of Defense  
24 employed at a military installation being closed or realigned  
25 under the Defense Base Closure and Realignment Act of 1990.

26 (VI) Was an active member of the Armed Forces or National  
27 Guard as of September 30, 1990, and was either involuntarily  
28 separated or separated pursuant to a special benefits program.

29 (VII) Experiences chronic seasonal unemployment and  
30 underemployment in the agriculture industry, aggravated by  
31 continual advancements in technology and mechanization.

32 (VIII) Has been terminated or laid off or has received a notice  
33 of termination or layoff as a consequence of compliance with the  
34 Clean Air Act.

35 (v) An individual who is enrolled in or has completed a state  
36 rehabilitation plan or is a service-connected disabled veteran,  
37 veteran of the Vietnam era, or veteran who is recently separated  
38 from military service.

1 (vi) An ex-offender. An individual shall be treated as  
2 convicted if he or she was placed on probation by a state court  
3 without a finding of guilty.

4 (vii) A recipient of:

5 (I) Federal Supplemental Security Income benefits.

6 (II) Aid to Families with Dependent Children.

7 (III) Food stamps.

8 (IV) State and local general assistance.

9 (viii) Is a member of a federally recognized Indian tribe, band,  
10 or other group of Native American descent.

11 (5) “Qualified taxpayer” means a corporation that conducts a  
12 trade or business within a LAMBRA and, for the first two  
13 taxable years, has a net increase in jobs (defined as 2,000 paid  
14 hours per employee per year) of one or more employees as  
15 determined below in the LAMBRA.

16 (A) The net increase in the number of jobs shall be determined  
17 by subtracting the total number of full-time employees (defined  
18 as 2,000 paid hours per employee per year) the taxpayer  
19 employed in this state in the taxable year prior to commencing  
20 business operations in the LAMBRA from the total number of  
21 full-time employees the taxpayer employed in this state during  
22 the second taxable year after commencing business operations in  
23 the LAMBRA. For taxpayers who commence doing business in  
24 this state with their LAMBRA business operation, the number of  
25 employees for the taxable year prior to commencing business  
26 operations in the LAMBRA shall be zero. If the taxpayer has a  
27 net increase in jobs in the state, the credit shall be allowed only if  
28 one or more full-time employees is employed within the  
29 LAMBRA.

30 (B) The total number of employees employed in the  
31 LAMBRA shall equal the sum of both of the following:

32 (i) The total number of hours worked in the LAMBRA for the  
33 taxpayer by employees (not to exceed 2,000 hours per employee)  
34 who are paid an hourly wage divided by 2,000.

35 (ii) The total number of months worked in the LAMBRA for  
36 the taxpayer by employees who are salaried employees divided  
37 by 12.

38 (C) In the case of a qualified taxpayer that first commences  
39 doing business in the LAMBRA during the taxable year, for  
40 purposes of clauses (i) and (ii), respectively, of subparagraph (B)

1 the divisors “2,000” and “12” shall be multiplied by a fraction,  
2 the numerator of which is the number of months of the taxable  
3 year that the taxpayer was doing business in the LAMBRA and  
4 the denominator of which is 12.

5 (6) “Qualified displaced employee” means an individual who  
6 satisfies all of the following requirements:

7 (A) Any civilian or military employee of a base or former base  
8 that has been displaced as a result of a federal base closure act.

9 (B) (i) At least 90 percent of whose services for the taxpayer  
10 during the taxable year are directly related to the conduct of the  
11 taxpayer’s trade or business located in a LAMBRA.

12 (ii) Who performs at least 50 percent of his or her services for  
13 the taxpayer during the taxable year in a LAMBRA.

14 (C) Who is hired by the employer after the designation of the  
15 area in which services were performed as a LAMBRA.

16 (7) “Seasonal employment” means employment by a qualified  
17 taxpayer that has regular and predictable substantial reductions in  
18 trade or business operations.

19 (8) “LAMBRA expiration date” means the date the LAMBRA  
20 designation expires, is no longer binding, or becomes  
21 inoperative.

22 (c) For qualified disadvantaged individuals or qualified  
23 displaced employees hired on or after January 1, 2001, the  
24 taxpayer shall do both of the following:

25 (1) Obtain from ~~either—the Employment Development~~  
26 ~~Department, as permitted by federal law, the administrative~~  
27 ~~entity of the local county or city for the federal Job Training~~  
28 ~~Partnership Act, or its successor, the local county GAIN-office,~~  
29 ~~office or social services agency, as appropriate or the local~~  
30 ~~government administering the LAMBRA, a certification that~~  
31 ~~provides that a qualified disadvantaged individual or qualified~~  
32 ~~displaced employee meets the eligibility requirements specified~~  
33 ~~in subparagraph (C) of paragraph (4) of subdivision (b) or~~  
34 ~~subparagraph (A) of paragraph (6) of subdivision (b). The~~  
35 ~~Employment Development Department may provide preliminary~~  
36 ~~screening and referral to a certifying agency. The Employment~~  
37 ~~Development Department shall develop a form for this purpose~~  
38 ~~The Department of Housing and Community Development shall~~  
39 ~~develop regulations governing the issuance of certificates by~~

1 *local governments pursuant to Section 7114.2 of the Government*  
2 *Code and shall develop forms for this purpose.*

3 (2) Retain a copy of the certification and provide it upon  
4 request to the Franchise Tax Board.

5 (d) (1) For purposes of this section, both of the following  
6 apply:

7 (A) All employees of all corporations that are members of the  
8 same controlled group of corporations shall be treated as  
9 employed by a single employer.

10 (B) The credit (if any) allowable by this section to each  
11 member shall be determined by reference to its proportionate  
12 share of the qualified wages giving rise to the credit.

13 (2) For purposes of this subdivision, “controlled group of  
14 corporations” has the meaning given to that term by Section  
15 1563(a) of the Internal Revenue Code, except that both of the  
16 following apply:

17 (A) “More than 50 percent” shall be substituted for “at least 80  
18 percent” each place it appears in Section 1563(a)(1) of the  
19 Internal Revenue Code.

20 (B) The determination shall be made without regard to Section  
21 1563(a)(4) and Section 1563(e)(3)(C) of the Internal Revenue  
22 Code.

23 (3) If an employer acquires the major portion of a trade or  
24 business of another employer (hereinafter in this paragraph  
25 referred to as the “predecessor”) or the major portion of a  
26 separate unit of a trade or business of a predecessor, then, for  
27 purposes of applying this section (other than subdivision (e)) for  
28 any calendar year ending after that acquisition, the employment  
29 relationship between an employee and an employer shall not be  
30 treated as terminated if the employee continues to be employed  
31 in that trade or business.

32 (e) (1) (A) If the employment of any employee, other than  
33 seasonal employment, with respect to whom qualified wages are  
34 taken into account under subdivision (a) is terminated by the  
35 taxpayer at any time during the first 270 days of that employment  
36 (whether or not consecutive) or before the close of the 270th  
37 calendar day after the day in which that employee completes 90  
38 days of employment with the taxpayer, the tax imposed by this  
39 part for the taxable year in which that employment is terminated  
40 shall be increased by an amount equal to the credit allowed under

1 subdivision (a) for that taxable year and all prior income years  
2 attributable to qualified wages paid or incurred with respect to  
3 that employee.

4 (B) If the seasonal employment of any qualified disadvantaged  
5 individual, with respect to whom qualified wages are taken into  
6 account under subdivision (a) is not continued by the qualified  
7 taxpayer for a period of 270 days of employment during the  
8 60-month period beginning with the day the qualified  
9 disadvantaged individual commences seasonal employment with  
10 the qualified taxpayer, the tax imposed by this part, for the  
11 taxable year that includes the 60th month following the month in  
12 which the qualified disadvantaged individual commences  
13 seasonal employment with the qualified taxpayer, shall be  
14 increased by an amount equal to the credit allowed under  
15 subdivision (a) for that taxable year and all prior taxable years  
16 attributable to qualified wages paid or incurred with respect to  
17 that qualified disadvantaged individual.

18 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to  
19 any of the following:

20 (i) A termination of employment of an employee who  
21 voluntarily leaves the employment of the taxpayer.

22 (ii) A termination of employment of an individual who, before  
23 the close of the period referred to in paragraph (1), becomes  
24 disabled to perform the services of that employment, unless that  
25 disability is removed before the close of that period and the  
26 taxpayer fails to offer reemployment to that individual.

27 (iii) A termination of employment of an individual, if it is  
28 determined that the termination was due to the misconduct (as  
29 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of  
30 the California Code of Regulations) of that individual.

31 (iv) A termination of employment of an individual due to a  
32 substantial reduction in the trade or business operations of the  
33 taxpayer.

34 (v) A termination of employment of an individual, if that  
35 individual is replaced by other qualified employees so as to  
36 create a net increase in both the number of employees and the  
37 hours of employment.

38 (B) Subparagraph (B) of paragraph (1) shall not apply to any  
39 of the following:



1 (i) A failure to continue the seasonal employment of a  
2 qualified disadvantaged individual who voluntarily fails to return  
3 to the seasonal employment of the qualified taxpayer.

4 (ii) A failure to continue the seasonal employment of a  
5 qualified disadvantaged individual who, before the close of the  
6 period referred to in subparagraph (B) of paragraph (1), becomes  
7 disabled and unable to perform the services of that seasonal  
8 employment, unless that disability is removed before the close of  
9 that period and the qualified taxpayer fails to offer seasonal  
10 employment to that qualified disadvantaged individual.

11 (iii) A failure to continue the seasonal employment of a  
12 qualified disadvantaged individual, if it is determined that the  
13 failure to continue the seasonal employment was due to the  
14 misconduct (as defined in Sections 1256-30 to 1256-43,  
15 inclusive, of Title 22 of the California Code of Regulations) of  
16 that individual.

17 (iv) A failure to continue seasonal employment of a qualified  
18 disadvantaged individual due to a substantial reduction in the  
19 regular seasonal trade or business operations of the qualified  
20 taxpayer.

21 (v) A failure to continue the seasonal employment of a  
22 qualified disadvantaged individual, if that individual is replaced  
23 by other qualified disadvantaged individuals so as to create a net  
24 increase in both the number of seasonal employees and the hours  
25 of seasonal employment.

26 (C) For purposes of paragraph (1), the employment  
27 relationship between the taxpayer and an employee shall not be  
28 treated as terminated by either of the following:

29 (i) A transaction to which Section 381(a) of the Internal  
30 Revenue Code applies, if the employee continues to be employed  
31 by the acquiring corporation.

32 (ii) A mere change in the form of conducting the trade or  
33 business of the taxpayer, if the employee continues to be  
34 employed in that trade or business and the taxpayer retains a  
35 substantial interest in that trade or business.

36 (3) Any increase in tax under paragraph (1) shall not be treated  
37 as tax imposed by this part for purposes of determining the  
38 amount of any credit allowable under this part.

39 (4) At the close of the second taxable year, if the taxpayer has  
40 not increased the number of its employees as determined by

1 paragraph (5) of subdivision (b), then the amount of the credit  
2 previously claimed shall be added to the taxpayer's tax for the  
3 taxpayer's second taxable year.

4 (f) In the case of an organization to which Section 593 of the  
5 Internal Revenue Code applies, and a regulated investment  
6 company or a real estate investment trust subject to taxation  
7 under this part, rules similar to the rules provided in Section  
8 46(e) and Section 46(h) of the Internal Revenue Code shall  
9 apply.

10 (g) The credit shall be reduced by the credit allowed under  
11 Section 23621. The credit shall also be reduced by the federal  
12 credit allowed under Section 51 of the Internal Revenue Code.

13 In addition, any deduction otherwise allowed under this part  
14 for the wages or salaries paid or incurred by the taxpayer upon  
15 which the credit is based shall be reduced by the amount of the  
16 credit, prior to any reduction required by subdivision (h) or (i).

17 (h) In the case where the credit otherwise allowed under this  
18 section exceeds the "tax" for the taxable year, that portion of the  
19 credit that exceeds the "tax" may be carried over and added to  
20 the credit, if any, in succeeding years, until the credit is  
21 exhausted. The credit shall be applied first to the earliest taxable  
22 years possible.

23 (i) (1) The amount of credit otherwise allowed under this  
24 section and Section 23645, including any prior year carryovers,  
25 that may reduce the "tax" for the taxable year shall not exceed  
26 the amount of tax that would be imposed on the taxpayer's  
27 business income attributed to a LAMBRA determined as if that  
28 attributed income represented all of the income of the taxpayer  
29 subject to tax under this part.

30 (2) Attributable income shall be that portion of the taxpayer's  
31 California source business income that is apportioned to the  
32 LAMBRA. For that purpose, the taxpayer's business income that  
33 is attributable to sources in this state first shall be determined in  
34 accordance with Chapter 17 (commencing with Section 25101).  
35 That business income shall be further apportioned to the  
36 LAMBRA in accordance with Article 2 (commencing with  
37 Section 25120) of Chapter 17, modified for purposes of this  
38 section in accordance with paragraph (3).

39 (3) Income shall be apportioned to a LAMBRA by multiplying  
40 the total California business income of the taxpayer by a fraction,

1 the numerator of which is the property factor plus the payroll  
2 factor, and the denominator of which is two. For purposes of this  
3 paragraph:

4 (A) The property factor is a fraction, the numerator of which is  
5 the average value of the taxpayer's real and tangible personal  
6 property owned or rented and used in the LAMBRA during the  
7 taxable year, and the denominator of which is the average value  
8 of all the taxpayer's real and tangible personal property owned or  
9 rented and used in this state during the taxable year.

10 (B) The payroll factor is a fraction, the numerator of which is  
11 the total amount paid by the taxpayer in the LAMBRA during the  
12 taxable year for compensation, and the denominator of which is  
13 the total compensation paid by the taxpayer in this state during  
14 the taxable year.

15 (4) The portion of any credit remaining, if any, after  
16 application of this subdivision, shall be carried over to  
17 succeeding taxable years, as if it were an amount exceeding the  
18 "tax" for the taxable year, as provided in subdivision (h).

19 (j) If the taxpayer is allowed a credit pursuant to this section  
20 for qualified wages paid or incurred, only one credit shall be  
21 allowed to the taxpayer under this part with respect to any wage  
22 consisting in whole or in part of those qualified wages.